

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.1273 OF 2013

V.Shanmugavel

...Petitioners

Vs.

1.The Special Commissioner
and Commissioner for Land Administration,
Chepauk, Madras 5.

2.The District Revenue Officer,
Thiruvarur.

3.The Revenue Divisional Officer,
Thiruvarur.

4.The Tahsildar, Kodavasal,
Thiruvarur.

...Respondents

PRAYER : This Writ Petition filed under Section 226 of Constitution of India, pleaded to issue a Writ of Certiorarified Mandamus to call for the records on the file of the 1st respondent in reference number K3/ 1986/ 2010 dated 22.11.2012 and quash the same as illegal incompetent and without jurisdiction and further direct the respondents 1 and 2 to restore the order of the 3rd respondent in ROC 1953/99 dated 22.4.2000.

For Petitioner : Mr.V.Raghavachari

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

The petitioner has filed this petition to call for the records on the file of the 1st respondent and quash the same and further direct the respondents 1 and 2 to restore the order of the 3rd respondent.

2. The case of the petitioner is that originally the property to an extent of 20 cents in S.F.No.129/6, Manakkal

Village, Kudavasal Taluk, Thiruvarur District, was owned by one Anjammal, who is the mother of the petitioner and thereafter, she executed Settlement Deed in the year 1986 for above said entire extent in favour of her grandson viz., Senthilkumar, son of the petitioner. During natham settlement, S.F.No.129/6 was sub divided and registered as S.F.No.129/30 admeasuring 9 cents as belonging to the petitioner and S.F.No.25, admeasuring 11 cents as 'Sarkar Porombomke Natham'. Against those entires, the petitioner has preferred a petition in the year 1999 before the Revenue Divisional Officer, Thiruvarur, claiming that his son had inherited 20 cents of land through a registered Settlement Deed, however at the time of natham settlement, patta issued for an extent of 9 cents only. The Revenue Divisional Officer, in his order dated 22.04.2000, has ordered to change the classification as 'Sarkar Manai, in respect of 2.6 metres and to re-survey the lands to leave pathway for only 2 metres as Sarkar Poromboke pathai, instead of 4.6 metres and thereafter as no action was taken by the Tahsildar, Kudavasal, the Revenue Divisional Officer has again directed the Tahsildar to prepare new sub division statement as ordered in his proceedings dated 22.04.2000. Aggrieved by the said order, one Saravanan has filed a Revision Petition before the District Revenue Officer, Thiruvarur, who vide proceedings dated 17.11.2003 has set aside the order of the Revenue Divisional Officer, Thiruvarur. Against the order of the District Revenue Officer, the petitioner has filed a Revision Petition, However, the said revision petition was dismissed vide order dated 24.12.2004. Challenging the same, the petitioner has preferred W.P.No.917/2009 and this Court vide order dated 26.11.2009, had kept the order dated 24.12.2004 in abeyance and directed the 1st respondent to issue direction to the Tahsildar to conduct a field survey. However, contrary to the order of this Court, the 1st respondent passed an order stating that there was an existing pathway after the UDR scheme on the western side of the property owned by the petitioner to a width of 4.6 metres. Challenging the same, the present petition is filed.

3. The learned counsel appearing for the petitioner submitted that the issue arises in the present round of litigation involves disputed question of facts, which can be decided only by the competent Civil Court and hence, this Court may permit the petitioner to file appropriate Civil Suit against the Government before the competent Civil Court, in order to substantiate his title over the 20 cents and till then the impugned orders passed by the respective authorities may be kept in abeyance for a period of eight weeks.

4. The Special Government Pleader appearing for the official respondents has no serious objections for the said order being passed.

5. Considering the fair submission made by the learned counsel appearing for the petitioner, this Court without rendering any opinion in the merits of the case, as it would adversely affect the rights of the parties before the Civil Court, permits the petitioner to file appropriate Suit before the competent Civil Court, for establishment of his title in respect of his 11 cents of land in S.F.No.129/6, against the private parties as well as the Government and further this Court grants status quo as on date, for a period of eight weeks.

6. This Writ Petition is disposed of with the above terms. No costs.

Sd/-
Assistant Registrar (CS-IX)

// True Copy //

Sub Assistant Registrar

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To

1.The Special Commissioner
and Commissioner for Land Administration,
Chepauk, Madras 5.

2.The District Revenue Officer,
Thiruvarur.

3.The Revenue Divisional Officer,
Thiruvarur.

4.The Tahsildar, Kodavasal,
Thiruvarur.

+1cc to Mr.V.Raghavachari, Advocate Sr.No.34692

+1cc to the Government Pleader Sr.No.35354

W.P.No.1273 of 2013

VG-II (CO)
RVM(11/07/2022)