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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.5175 of 2022

and

W.M.P.Nos.5275 & 5276 of 2022

Kuppusamy

...Petitioner

Vs.

1. The District Revenue Officer,  
Namakkal District, Namakkal.
2. The Revenue Divisional Officer,  
Namakkal Revenue Division,  
Namakkal, Namakkal District.
3. The Tahsildhar,  
Rasipuram Taluk,  
Rasipuram, Namakkal District.
4. Parvathy

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of impugned order dated 15.11.2021 in Na.Ka.No.17093/2020 (01) passed by the 1<sup>st</sup> respondent and quash the same with regard to provide cart tract in S.No.328/3, Akkaraipatti Village, Rasipuram, Namakkal District, consequently forbear the respondents from interfering with the petitioner's peaceful possession and enjoyment of the land in S.No.328/3, Akkaraipatti Village, Rasipuram, Namakkal District.

For Petitioner : Mr.M.R.Jothimanian

For Respondents R1 to R3 : Mr.M.Murali,  
Government Advocate

For Respondent R4 : Mr.L.Chandrakumar,  
for Mr.R.Kamaraj

O R D E R

The petitioner has filed this Writ Petition for quashment of the impugned order dated 15.11.2021 in Na.Ka.No.17093/2020 (01) passed by the 1<sup>st</sup> respondent with regard to provide cart tract in



S.No.328/3, Akkaraipatti Village, Rasipuram, Namakkal District, consequently forbear the respondents from interfering with the petitioner's peaceful possession and enjoyment of the land in the above said Village.

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2. The case of the petitioner in W.P.No.5175 of 2022 is that originally the land in S.No.328/3 to an extent of 19 cents situated at the above said Village was assigned to one Muthu Gounder by the Government and thereafter subsequently, the petitioner's vendor acquired the said property by way of inheritance as legal heir and thereafter the said property was settled in favour of the petitioner through registered sale deed dated 19.02.1992. Moreover, the petitioner is also an occupant of lands in S.No.328/2 to an extent of 8 cents in the same village. Due to some dispute regarding usage of pathway in respect of the land in S.No.328/2 between the petitioner and the 4<sup>th</sup> respondent, who is the neighbouring land owner of the petitioner's land, the 4<sup>th</sup> respondent filed a suit in O.S.No.154 of 2014 before the learned District Munsif, Rasipuram and the same is pending.

3. In order to agitate the said issue before the Civil Court, the petitioner also filed another suit in O.S.No.22 of 2019 before the learned District Munsif, Rasipuram and the same is also pending. While that being so, the 4<sup>th</sup> respondent filed a grievance day petition dated 15.07.2019 before the District Collector for cancellation of Patta issued in favour of the petitioner in S.No.328/3 and the same was forwarded to the 1<sup>st</sup> respondent. The 1<sup>st</sup> respondent directed the 3<sup>rd</sup> respondent to remove the obstructions in the above said Survey Number and passed the impugned order dated 15.11.2021. Challenging the said order dated 15.11.2021, this Writ Petition is filed.

4. Learned counsel for the petitioner submitted that Civil Suits in O.S.No.154/2014 and O.S.No.22 of 2019 filed by the 4<sup>th</sup> respondent and the petitioner respectively are pending before the Learned District Munsif, Rasipuram with regard to S.No.328/3. While that being so, the 1<sup>st</sup> respondent is not the competent authority to decide upon the issue which is pending before the Civil Court. Therefore, the impugned order in Na.Ka.No.17093 of 2020 dated 15.11.2021 passed by the 1<sup>st</sup> respondent is liable to be set aside. Hence, he prays for setting aside the said order passed by the 1<sup>st</sup> respondent.

5. Heard the submission made by the learned Government Advocate appearing for respondents 1 to 3 and the learned Standing Counsel appearing for the 4<sup>th</sup> respondent.

6. From a perusal of the materials available on records, it is seen that Civil Suits in O.S.No.154/2014 and O.S.No.22 of



2019, filed by the 4<sup>th</sup> respondent and the petitioner respectively are pending before the Learned District Munsif, Rasipuram. It is to be pointed out that the Revenue officials are not the competent authority to decide upon the issue and the learned District Munsif, Rasipuram, who is alone competent is directed to decide upon the issue independently, without being influenced by any of the observations made in the impugned order dated 15.11.2021 passed by the 1<sup>st</sup> respondent in Na.Ka.No.17093/2020 (01). The petitioner shall canvass all those points before the competent Civil Court, where the suit is pending. The respondents shall not take any further action on the impugned order till the disposal of the suit.

7. With the aforesaid directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-  
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

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To

1. The District Revenue Officer,  
Namakkal District, Namakkal.
2. The Revenue Divisional Officer,  
Namakkal Revenue Division,  
Namakkal, Namakkal District.
3. The Tahsildhar,  
Rasipuram Taluk,  
Rasipuram, Namakkal District.

Copy To

The District Munsif,  
Rasipuram.

+1cc to M/s.R.Kamaraj, Advocate, S.R.No.16751  
+1cc to M/s.M.R.Jothimanian, Advocate, S.R.No.17395  
+1cc to the Government Pleader, S.R.No.17065

W.P.No.5175 of 2022

RR(CO)  
RGA(26/04/2022)