



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **08.06.2022**

CORAM

WEB COPY

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P. (MD) .No.7995 of 2011

and

M.P. (MD) .No.1 of 2011

K.Kadher Mohaideen,
President,
Mohaideen Andavar Jummapallivasal. ... Petitioner

Vs.

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The Revenue Divisional Officer,
Ramnagar,
Devakottai,
Sivagangai District.

3.The Tahsildar,
Thiruppathur Taluk,
Sivagangai District. ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for records pertaining to the impugned order in Moo.Mu.A1/2391/2011 dated 28.06.2011 on the file of the second respondent and quash the same as illegal and consequently to direct the respondents No.2 and 3 to make the necessary mutations in the revenue records in pursuance to the order passed by the Assistant Settlement Officer dated 25.12.1998 within a period of time stipulated by this Court.

For Petitioner : Mr.S.Vasanth
for Mr.T.Lajapathi Roy

For Respondents : Mr.D.Sasikumar
Additional Government Pleader.



ORDER

The present writ petition has been filed challenging an order passed by the second respondent under which the request of the petitioner Pallivasal for grant of revenue patta was rejected.

2. According to the learned Counsel for the petitioner, by an order dated 25.12.1998, Assistant Settlement Officer, Madurai has granted patta in the name of the writ petitioner Pallivasal. The said order has not been challenged by any one of the parties and it has become final. The writ petitioner Pallivasal has been continuously approaching the Revenue authorities for grant of revenue patta. Unsuccessful in their attempt, the Pallivasal has filed a writ petition in W.P.(MD)No.7616 of 2007, before this Court for a Mandamus directing the Revenue authorities to consider the request for grant of patta. By an order dated 14.03.2011, this Court passed an order directing the District Collector to consider the representation of the petitioner Pallivasal and pass orders within a period of twelve weeks from the date of receipt of a copy of the order. Thereafter, Pallivasal has sent another representation on 21.04.2011 to the District Collector, Sivagangai. However, from the records, it could be seen that the District Collector has not passed any orders pursuant to the orders of this Court. The present impugned order has been passed by the Revenue Divisional Officer on 28.06.2011.

3. A perusal of the impugned order reveals that a spot inspection was conducted by the Tahsildar and other Revenue authorities, wherein, they found that there are certain encroachments made by some persons belonging to a different religion. The Revenue Divisional Officer in his impugned order states that in case if a revenue patta is granted in favour of the writ petitioner, it may result in law and order problem. The said order is under challenge in the present writ petition.

4. Admittedly, as per the orders of the Assistant Settlement Officer, the land in dispute belongs to Pallivasal. Infact the Wakf Superintendent has sent a communication on 10.08.2010 to the third respondent requesting him to grant patta in favour of the Pallivasal and for removal of the encroachments. Hence, it is evident that the property is under the administration and control of the Wakf Board. The Revenue authorities cannot refuse to issue revenue patta on the ground that it may result in law and order problem. However, the property being under the Administration of the Wakf Board, it is for the Wakf Board to take any action for the removal of encroachments as contemplated under Section 54 of the Wakf Act, 1995. Hence, the possession of the disputed property in the hands of the encroachers cannot be an impediment for the Revenue authorities for grant of patta in favour of the petitioner Pallivasal, when the property is a



Wakf property. The impugned order is set aside. The third respondent is directed to issue revenue patta in favour of the writ petitioner. However, any action relating to the removal of encroachment shall be left to the Wakf Board to be initiated under Section 54 of the Wakf Act, 1995.

WEB COPY

5. With the above said observations, the writ petition is disposed of. No cost. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AD-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

jbr

To

- 1.The District Collector,
Sivagangai District,
Sivagangai.
- 2.The Revenue Divisional Officer,
Ramnagar,
Devakottai,
Sivagangai District.
- 3.The Tahsildar,
Thiruppathur Taluk,
Sivagangai District.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-25053[F] dated 10/06/2022)

Order made in
W.P.(MD).No.7995 of 2011
08.06.2022

IM(ASO)
TR(21.06.2022) 3P 5C