



WEB COPY

W.P.No.11284 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.11284 of 2023

and

W.M.P.Nos.11162 & 11284 of 2023

Mr.K.Sivaprakash

... Petitioner

Vs.

1.The Tahsildar,
O/o. Tahsildar Madukkarai Taluk,
Coimbatore District.

2.Mrs.V.Thulasimani

3.Mr.Selvarathinam

4.S.Selvanayagi

5.S.Selvakrishna

6.S.Selvasriram

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned possession certificate proceeding vide Mu.Mu. 4240/2022/A7 dated 19.10.2022 issued by 1st respondent so as to facilitate the 2nd respondent to bring out the consequential order encumbering the



petitioner's property to the pending appeal before the competent authority and quash the same as it is illegal, non-est in law and to direct the 1st respondent to restore the patta in the name of actual owner by name Rajan Mehra on the same.

For Petitioner : Mr.V.Manohar

For R1 : Mr.V.Arun
Additional Advocate General
Assisted by Mr.P.Sanjay Gandhi
Government Advocate

For R2 to R6 : Mr.N.Manokaran

ORDER

The ownership certificate issued by the Tahsildar in proceedings dated 19.10.2022 is sought to be quashed in the present writ petition.

2. The petitioner states that he is the absolute owner of the subject property more fully described in the affidavit filed in support of the present writ petition. The dispute arose due to the fact that an application was submitted by the 2nd respondent before the Tahsildar, Madukkarai for issuance of ownership certificate. The Tahsildar issued the impugned ownership certificate in favour of the 2nd respondent Smt.V.Thulasimani stating that the 2nd respondent is the owner of the subject property.



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3. The learned counsel for the 2nd respondent though states that the ownership certificate issued by the Tahsildar is to be construed as possession certificate, the Tahsildar cannot issue any one of such certificate without conducting any enquiry and more so, the Tahsildars are incompetent to issue ownership certificate at all.

4. In the present case, the title of the certificate impugned indicates that it is a ownership certificate. In the event of issuing such certificate, the same would result in prejudice to the other persons claiming right over the property. Admittedly, there is a dispute in respect of the subject property, since the petitioner also claims ownership. While so, the Tahsildar is bound to relegate the parties to approach the Civil Court of Law for the purpose of establishing their civil rights.

5. Contrarily, the Tahsildar unilaterally verified the documents presented by the 2nd respondent and issued the ownership certificate, which caused prejudice to the property right of the petitioner. Such an adjudication of title or ownership cannot be undertaken by the Tahsildar and it is beyond the powers conferred on him. That being the factum, the certificate of



ownership issued by the Tahsildar unilaterally without conducting any enquiry is untenable.

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6. The parties are at liberty to approach the Competent Civil Court of Law for the purpose of establishing their title, ownership or to recover the possession or otherwise or the case may be. In view of the facts and circumstance, impugned possession certificate proceeding vide Mu.Mu. 4240/2022/A7 dated 19.10.2022 issued by the 1st respondent is quashed.

7. Accordingly, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

29.08.2023
(2/2)

Jeni
Index : Yes
Speaking order
Neutral Citation : Yes



To

The Tahsildar,
O/o. Tahsildar Madukkarai Taluk,
Coimbatore District.

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S.M.SUBRAMANIAM, J.

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