



WEB COPY



W.P. No. 32436 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2023

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 32436 of 2023

Hemamalini

... Petitioner

-VS-

1. The Commissioner
HR & CE Department
Nungambakkam
Chennai.

2. The Assistant Commissioner
HR & CE Department
Balasundaram Road
Coimbatore.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the Second Respondent to consider the Petitioner's representation dated 07.09.2023 and to issue No Objection Certificate for issuance of patta to the Petitioner's name in respect of property situated at S.No.379/1, 379/2 and 379/3 for an extent of 5 acres of land at Sundakkamathur Village, Coimbatore after removing the wrong entry of Kunniya Muthur Vinaya Temple and Mariamman Temple's name.

For Petitioner : Mr. T.Gnana Banu

For Respondents : Mr. C.Jayaprakash

ORDER

Heard Mr. T.Gnana Banu, Learned Counsel for the Petitioner and Mr. C.Jayaprakash, Learned Counsel, who takes notice for the Respondents and

<https://www.mhc tn gov in/judicial> perused the materials placed on record, apart from the pleadings of the parties.



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2. It is the case of the Petitioner that the land of an extent of 5 acres in Survey No.379/1, 379/2 and 379/3 at Sundakkamathur Village, Coimbatore District, belongs to her father, viz., Rajagopal, and after his demise on 24.06.1996, it had devolved upon his legal heirs including her, who had succeeded to his estate. However, as the name of Kunniya Muthur Vinayagar Temple and Mariamman Temple (hereinafter referred to as 'the Temple' for short) had been reflected in the 'A Register' in the revenue records, the Petitioner claims to have made representations to the Respondents for issuing 'no objection' certificate for obtaining patta in respect of the said property from the revenue authorities, but as it did not evoke any response, it has necessitated the filing of this Writ Petition.

3. The Hon'ble Supreme Court of India in **Roshina T. -vs- Abdul Azeez K.T.** [(2019) 2 SCC 329] has reiterated the law that disputed questions of fact relating to property rights, which are private in character and do not have any element of public law involved, require full fledged trial by recording of evidence of parties and cannot be decided in a summary manner in proceedings under Article 226 of the Constitution of India and has cautioned that such claims would have to be answered one way or the other only in a properly framed suit impleading necessary parties before the civil court.



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4. In view of the dictum laid down by the Hon'ble Supreme Court in

Muddasani Venkata -vs- Muddasani Sarojana [(2016) 12 SCC 288] that entries of possession made in revenue records do not give any right to claim title to the property, the Civil Court shall not be influenced or inhibited by the past entries made in the revenue records in favour of either of the parties, and the question of ownership of that property would have to be independently determined on merits considering the pleadings and the evidence adduced by the contesting parties in accordance with law. Though obvious, it is clarified that no view has been expressed by this Court on the correctness or entitlement on the merits of the divergent claims (for title and possession) relating to the property made by the contesting parties.

In the result, the Writ Petition is disposed on the aforesaid terms. No costs.

20.11.2023

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 31.05.2024.

Maya



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P.D. AUDIKESAVALU, J.

Maya

To

1. The Commissioner
HR & CE Department
Nungambakkam, Chennai.
2. The Assistant Commissioner
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Balasundaram Road
Coimbatore.

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