



W.A(MD)No.344 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.03.2023

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.A(MD)No.344 of 2023
and
C.M.P(MD)No.3708 of 2023**

- 1.The District Collector,
Sivagangai District,
Sivagangai.
 - 2.The District Revenue Officer,
Sivagangai District.
 - 3.The Revenue Divisional Officer,
Devakottai Taluk,
Sivagangai.
 - 4.The Tahsildar,
Karaikudi Taluk,
Sivagangai District.
- ... Appellants/Respondents 1 to 4
- vs-
- 1.V.Murugesan
 - 2.K.R.Jayavarthini
- ...1st Respondent/writ petitioner
... 2nd respondent/5th respondent

PRAYER: Appeal filed under Clause 15 of Letters Patent, against the order dated 28.07.2022 passed in W.P(MD)No.492 of 2020.



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For Appellants : Mr.R.Baskaran,
Additional Advocate General, assisted by,
Mr.P.T.Thiraviyam,
Government Advocate
For R-1 : Mr.S.Ramsundarvijayaraj
For R-2 : Mr.A.L.Vijaydevaraj

JUDGMENT

[Judgment of the Court was made by R.SUBRAMANIAN, J.]

Being aggrieved by the order of the Writ Court, dated 28.07.2022 made in W.P(MD)No.492 of 2020, the State is on appeal.

2. Though Mr.R.Baksaran, learned Additional Advocate General would vehemently contend that correctness of the conclusions of the civil Court should have been addressed by the Writ Court, we are unable to accept such argument.

3. In the case on hand, the first respondent had filed a civil suit in O.S.No.61 of 1998 on the file of the District Munsif, Devakottai, for declaration of his title and for consequential injunction. The other private defendants contested the suit. The District Collector filed a written statement stating that he is not a necessary party and hence, suit against him has to be dismissed. The civil Court after considering the evidence on record concluded that the plaintiff is the owner of the property and decreed



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the suit as prayer for. An appeal was filed by the contesting parties in A.S.No.28 of 1999 and the same came to be dismissed on 31.01.2000. A second appeal to this Court and an attempted S.L.P., before the Hon'ble Supreme Court also met with the same fate. Therefore, the decree declaring the title of the first respondent is affirmed at all levels in the civil litigation. Since the authorities refused to recognize the decree and effect changes in the revenue records, the writ petitioner was forced to file the writ petition in W.P(MD)No.492 of 2020 challenging the order refusing to transfer patta and to direct the respondents to issue patta in his favour. The said writ petition came to be allowed by the order impugned in this appeal.

4. Once the civil Court has affirmed the title of an individual, a Writ Court which is exercising a collateral jurisdiction cannot disturb the findings of the civil Court or upset the same. In the case on hand, the parties have litigated up to the highest Court in the land and the judgment of the District Munsif has been affirmed. No doubt, a plea with reference to the applicability of the Tamil Nadu Act 26 of 1948 was not agitated in the suit. In view of the judgment of the Hon'ble Full Bench in **Srinivasan and six others v. Sri Madhyarjuneshwaraswami, Pattavaithalai, Tiruchirapally District by its Executive Officer at Pattavaithalai Devasthanam and five others** reported in **1998(1) CTC 630**, a civil suit



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between rival claimants is maintainable *de horse* the grant of patta under the Inam Abolition Acts. Once the Civil Court grants a decree for declaration, the grant of patta under Inam Abolition Acts and the vesting of the property under the Tamil Nadu Act 26 of 1948, do not really a matter. We, therefore, do not think that such question could be re-addressed or re-argued in the collateral proceedings. We, therefore, do not see any reason to interfere with the conclusions of the Writ Court.

5. The writ appeal fails and it is accordingly dismissed.
No Costs. Consequently, connected miscellaneous petition is closed.

[R.S.M., J.]

[L.V.G., J.]

24.03.2023

NCC :Yes/No

Index :Yes/No

PM

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