



W.P(MD)No.4410 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:14.03.2023

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD).No.4410 of 2023

I.Sivasankaran

... Petitioner

Vs

1.The District Collector,
District Collectorate,
Virudhunagar District, Virudhunagar.- 626 002.

2.The District Revenue Officer,
Collector Office Campus,
Virudhunagar District, Virudhunagar- 626 002.

3.The Revenue Divisional Officer,
Revenue Divisional Office,
Aruppukottai, Virudhunagar District.

4.The Tahsildar,
Taluk Office, Virudhunagar,
Virudhunagar District- 626 001.

5.M.Priya

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to cancel the Patta No. 1411 issued to the fifth Respondent for S.Nos. 153/2, 153/5B, 153/6B, 165/1, 165/5 in Kooraikundu Village as per the petitioner's petition dated 08.08.2020.

For Petitioner	:Mr.S.Radhakrishnan
For R1 to R4	:Mr.J.Ashok Additional Government Pleader
For R5	:Mr.M.Ramu

ORDER

The Writ Petition has been filed in the nature of mandamus, seeking cancellation of Patta No. 1411, issued to the fifth Respondent, with respect to the lands in S.Nos. 153/2, 153/5B, 153/6B, 165/1, 165/5 in Kooraikundu Village, Virudhunagar Taluk, Virudhunagar District.

2.In the affidavit filed in support of the writ petition, the petitioner had stated that the aforementioned lands were gifted by the British Government to his grand father Sakkaraya Pillai. It is stated that the lands had been given for formation of Virudhunagar Collector Office and there are some other ancestral lands, which are still available. The family members of



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the petitioner are also holding some of the lands. It is further stated that in their absence, the lands had been utilised by the mother of the fifth respondent, who had given a false complaint before the Superintendent of Police, District Crime Branch, Virudhunagar, through the learned Judicial Magistrate, No.II, Virudhunagar. FIR in Crime No.33 of 2007, dated 15.10.2007 had been registered against the petitioner herein. It had also been stated that as per the finding given by the Superintendent of Police, District Crime Branch, Virudhunagar, the fifth respondent has no document to prove her title. However, a suit had been filed by the fifth respondent, before the District Munsif Court, Virudhunagar and she had obtained an ex-parte decree in her favour. In her name, patta was also issued by the fourth respondent/Tahshildar, Taluk Office, Virudhunagar. Seeking cancellation of the patta, the present writ petition has been filed.

3.The main grievance of the learned counsel for the petitioner is that the patta was granted, even though the civil suit was pending before the District Munsif Court, Virudhunagar. Though the petitioner had not filed any civil suit, the mother of the fifth respondent had filed the suit and had obtained a decree in her favour. The petitioner had also filed an appeal and it



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is pending for condonation of delay in filing the appeal.

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4.The order of the fourth respondent is dated, 08.08.2020. There is an appellate remedy available to the petitioner herein to file an appeal before the third respondent/The Revenue Divisional Officer, Arupukottai, Virudhunagar District.

5.The learned counsel for the petitioner had placed reliance on the Judgment of a learned Single Judge Bench in ***S.A.No.313, 314 of 2008, dated 11.02.2019, in A.Manickam Vs Jayakumari and others***, wherein, it has been observed that when a civil suit is pending, the revenue authorities cannot decide title of any property. In the Civil Court, a finding can be given relating to title, relating to possession, but certainly not relating to classification of land in the revenue records.

6.Even if it is claimed that the period of limitation for filing appeal is over, the petitioner may be exempted for the period for which leverage is given on account of Covid-19. The present writ petition had been filed on 27.02.2023. From that date, till this day (ie., 14.03.2023), further



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relaxation can be given to the petitioner herein. For other delay, the petitioner may give necessary explanation before the third respondent. The third respondent should issue notice to the petitioner and the fifth respondent and examine the issue, in the light of pendency of the civil suit, application for condonation of delay in filing appeal and other factors. Liberty is granted to the petitioner to file an appeal before the third respondent/The District Revenue Officer, Arupukottai, Virudhunagar District.

7.With the above directions, this Writ Petition stands disposed of.

No costs.

14.03.2023

NCS :Yes/No
Index :Yes/No
Internet:Yes/No

PNM



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To

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C.V.KARTHIKEYAN,J.

PNM

ORDER IN
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