



W.P(MD)No.5400 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.5400 of 2023

R.Palanisamy

... Petitioner

Vs.

1.The Revenue Divisional Officer,
Kulithalai,
Karur District.

2.The Tahsildar,
Kulithalai,
Karur District.

3.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Karur,
Karur District.

4.The Executive Officer,
Arulmighu Rethinagireswarar Thirukovil,
Sivayam Ayyermalai,
Kulithalai Taluk,
Karur District.

... Respondents



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PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records from the first respondent in her proceedings in ந.க.அ1/3392/2022 dated 02.02.2023 and quash the same and consequently direct the second respondent to issue patta in favour of the petitioner to the property belong to the petitioner's trust, situated in survey No.508/1, (Old Survey No.41/1) to an extent of 0.02.60 sq.meter in Ayyarmalai, Sathyamangalam Village, Kulithalai Taluk, Karur District within the period stipulated by this Court.

For Petitioner : M/s. Radhi Sathish
For R1 & R2 : Mr.N.Muthu Vijayan
Special Government Pleader
For R3 & R4 : Mr.M.Senthil Ayyanar
Government Advocate.

ORDER

This writ petition has been filed in the nature of Certiorarified Mandamus seeking to call for the records relating to the proceedings of the first respondent/The Revenue Divisional Officer, Kulithalai, Karur District in ந.க.அ1/3392/2022 dated 02.02.2023 and



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quash the same and consequently direct the second respondent/The Tahsildar, Kulithalai, Karur District to issue patta in favour of the petitioner relating to the land in survey No.508/1, (Old Survey No.41/1) to an extent of 0.02.60 sq.meter in Ayyarmalai, Sathyamangalam Village, Kulithalai Taluk, Karur District.

2.The petitioner is effectively the Moondru Manthai 84 Oor Sozhia Vellalar Sayaratchai Kattalai, Ayyarmalai, Sathiyamangalam Village, Kulithalai Taluk. The said Kattalai is represented by the petitioner by its Secretary.

3. The first respondent/The Revenue Divisional Officer on behalf of the respondents 3 & 4, particularly, the fourth respondent/ the Executive Officer, Arulmighu Rethinagireswarar Thirukovil, Sivayam Ayyermalai at Karur District had filed a suit in O.S.No.213/2001 before the Principal District Munsif Court at Kulithalai seeking declaration of title and injunction as against the petitioner herein with respect to the said lands.



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4. The learned counsel for the petitioner states that the petitioner is doing a yearly function related to the temple which is conducted on 4th day Chithirai festival every year. The lands have been allotted to the petitioner herein. The petitioner is in possession of the lands and claimed title and this was objected by the first respondent/the Revenue Divisional officer on behalf of the fourth respondent/the Executive Officer, Arulmighu Rethinagireswarar Thirukovil.

5. The said suit in O.S.No.213 of 2001 was decreed by the Principal District Munsif, Kulithalai. As against the said decree, A.S.No. 16 of 2007 and cross-appeal was preferred by both the plaintiff/defendant before the Sub-Court. The learned I Appellate Judge had decided the issue on title against the petitioner herein, but had granted the right of possession. The petitioner herein then filed S.A(MD)No.955 of 2008 before this Court. The learned Single Judge of this Court by judgment dated 07.01.2010 allowed the second appeal, but however, the substantial questions of law was whether the first appellate Court had upheld the relief of possession. That observation of the first appellate Court was upheld by the learned Single Judge. Factually it



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meant that the title vested with the first respondent and fourth respondent and the petitioner's possession was recognised.

6. On the basis of the said judgment, the petitioner had filed an application before the first respondent for granting patta. By the impugned order, dated 02.02.2023 in Na.Ka.A1/No.3392/2002, the first respondent had refused to grant patta, but still stated that the petitioner has the right to collect rent and maintain the Kattalai. Questioning that particular order, the present writ petition has been filed.

7. The issue of title has processed upto the Second Appeal stage. The grant or otherwise of patta can be examined only by the Revenue Authorities. A right to file appeal is available and has to be preferred within 30 days before the District Revenue Officer at Karur.

8. It would be extremely improper for this Court to interfere with the findings relating to possession since the records would be the available only with the revenue authorities. The issue of possession can be decided only by the said authorities. The usage of Chatram by the



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petitioner can also be examined only by the said authorities. The nature of function conducted by the petitioner for the 4th day of Chithirai month can also be examined only by the said authorities.

9. The petitioner has a right to file a regular appeal. From the date of the order, the petitioner had 30 days time to prefer the appeal. The order was served on 09.02.2023. This writ petition has been filed before this Court on 09.03.2023. The period from 07.02.2023 when this writ petition was filed till this order is uploaded may be excluded from the period of limitation. A direction is given to the Appellate Authority not to put the issue of limitation. The petitioner should file the appeal within 10 days from the date of receipt of a copy of this order.

10. With the above observations, the writ petition stands disposed of. No costs.

Index :Yes/No
Internet :Yes/No
NCC : Yes / No
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C.V.KARTHIKEYAN, J.

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