



WRIT APPEAL(MD)No.1108 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.07.2023

CORAM

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
AND
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

**WRIT APPEAL(MD)No.1108 of 2023
and
C.M.P.(MD)No.8520 of 2023**

Salamon

: Appellant/Petitioner

Vs.

- 1.The Revenue Divisional Officer,
Kodaikanal Revenue Division,
Kodaikanal, Dindigul District.
- 2.The Tahsildar,
Kodaikanal Taluk,
Kodaikanal, Dindigul District.
- 3.The Zonal Deputy Tahsildar,
Kodaikanal Taluk,
Kodaikanal, Dindigul District.
- 4.Arcot American Mission,
Calfilling Road,
Kodaikanal Taluk,
Kodaikanal, Dindigul District.



WRIT APPEAL(MD)No.1108 of 2023

WEB COURT

5.Church of South India Trust Association (CSITA),

Rep. by its Secretary,
C.Fernandas Rathina Raja,
CSI Centre, No.5-Whites Road,
Royapettah, Chennai.

: Respondents/Respondents

Prayer:

Writ Appeal has been filed under Clause 15 of Letters Patent to set aside the order, dated 25.04.2023 made in W.P.(MD)No.4110 of 2022 on the file of this Court.

For Appellant : Mr.Raja. Karthikeyan

For R1 to R3 : Mr.M.Lingadurai
Special Government Pleader

For R5 : Mr.M.Ajmalkhan
Senior Counsel

J U D G M E N T

(Order of the Court was made by D.BHARATHA CHAKRAVARTHY, J.)

This Writ Appeal is directed against the order of the learned Single Judge of this Court, dated 25.04.2023 made in W.P.(MD)No.4110 of 2023. In the writ petition, the petitioner prayed to quash the order dated 23.02.2022 in and by which, the Town Survey Land Register extract in



WRIT APPEAL(MD)No.1108 of 2023

respect of the property in S.No.6/3, Kodaikanal Town was transferred and issued in the name of the fourth respondent from the existing land owners. The learned Single Judge, found that originally, the patta was standing in the name of the fifth respondent and without even any notice to the fifth respondent was clandestinely without hearing the said respondent was transferred in the name of the petitioner and that the same has rightly been corrected and restored in the name of the original owner and therefore, dismissed the writ petition.

2. Mr. Raja. Karthikeyan, learned counsel appearing for the appellant, impugning and assailing the order of the learned Single Judge would submit that the property originally belonged to Arcot American Mission and they had in fact left the property only to the predecessor-in-interest of the appellant herein. As a matter of fact, only because the property was sought to be encroached by the local people, unable to face them, the appellant sought umbrage under the fifth respondent and taking undue advantage thereof, now the fifth respondent itself is claiming title to the property.



WRIT APPEAL(MD)No.1108 of 2023

WEB COPY

3. Per contra, Mr.M.Ajmal Khan, learned Senior Counsel appearing for the fifth respondent would submit that it is the fifth respondent who is the successor of the fourth respondent and the fifth respondent Church succeeded to all the properties, assets of the fourth respondent to continue with their activities through the religious conjugation established by the fourth respondent Mission. The appellant and his father were the employees of the fifth respondent and as such were functioning as caretakers and whileso they grew greedy and they made an attempt to change the revenue records itself, which mistake has been corrected.

4. We have considered the rival submissions made on either side and perused the material records of the case.

5. Firstly, it can be seen that while the appellant is impugning the correction of the revenue record, he has got no record whatsoever as to how the property of the fourth respondent, namely, Arcot American



WRIT APPEAL(MD)No.1108 of 2023

Mission came to be vested in the appellant and his forefathers. When title to such a valuable properties, which is in the heart of the Kodaikanal Town is claimed by the appellant, it remains a mystery that the appellant and his father were working as Gardeners/Caretaker under the fifth respondent Church. This apart, when the earlier mutation of records was not even in accordance with Section 10 of the Patta Passbook Act, 1983 ie., when there was no any transfer inter vivos or succession, there was no occasion for the authorities to have mutated the revenue record in favour of the appellant or his father.

6. In that view of the matter, a fraudulent/clandestine entry has only been corrected. If the petitioner is aggrieved by issue of patta or mutation of the revenue record in the name of the fifth respondent association, on the ground that he is in possession, at best, he can only file a suit as per the proviso to Section 14 of the Patta Passbook Act, 1983 and absolutely this dispute relating to his *defacto* possession or claim of ostensible title as the case may be cannot be decided either by the revenue officials or by this Court in exercise of its jurisdiction under



WRIT APPEAL(MD)No.1108 of 2023

WEB COPY

Article 226 of the Constitution of India. In view thereof, no exception whatsoever can be taken for the findings of the learned Single Judge in dismissing the writ petition.

7. In the result, this Writ Appal stands dismissed, however, with liberty for the petitioner to file a civil suit and agitate his grievance if so chooses to, before the appropriate civil Court. No costs. Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.] [D.B.C., J.]

20.07.2023

NCC : Yes / No

Index:Yes/No

Internet:Yes/No

sjj

To

1.The Revenue Divisional Officer,
Kodaikanal Revenue Division,
Kodaikanal, Dindigul District.

2.The Tahsildar,
Kodaikanal Taluk,
Kodaikanal, Dindigul District.

6/8



WRIT APPEAL(MD)No.1108 of 2023

WEB COPY 3. The Zonal Deputy Tahsildar,
Kodaikanal Taluk,
Kodaikanal, Dindigul District.



WEB COPY



WRIT APPEAL(MD)No.1108 of 2023

S.S.SUNDAR, J.
AND
D.BHARATHA CHAKRAVARTHY, J.

sj1

WRIT APPEAL(MD)No.1108 of 2023

20.07.2023