



W.P. (MD) No. 19671 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.02.2023

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C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU

W.P. (MD) No. 19671 of 2021

T.Jayachandran

... Petitioner

Vs.

1. The District Collector,
Virudhunagar District,
Virudhunagar.

2. The Commissioner,
Rajapalayam Municipality,
Virudhunagar District.

3. Kallar Kula Thondaiman Samoogam,
Rep. by its Secretary Mr. K.Thangasamy,
Aavarampatti,
Rajapalayam Town,
Virudhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the constitution of India, to issue a Writ of Mandamus, to direct the 2nd respondent to cancel the property assessment which stands in the name of the 3rd respondent in respect of the limestone trumpet situated within the lands in S.No. 297/1 to an extent of 35 cents in T.S.No.60, Pugalendhi Road, Rajapalayam Town, Virudhunagar District by conducting an enquiry based on the representation



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of the petitioner dated 27.08.2021 within a specified time to be fixed by this Honble Court.

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For Petitioner	: Mr. A. Mohan
For R1	: Mr. A.Selvaganesan, Additional Government Pleader
For R2	: Mr. N.Dilipkumar

ORDER

Heard Mr. A.Mohan, Learned Counsel for the Petitioner, Mr. A.Selvaganesan, Learned Additional Government Pleader appearing for the First Respondent and Mr. N.Dilipkumar, Learned Counsel for the Second Respondent and perused the materials placed on record apart from the pleadings of the parties.

2. It is the case of the Petitioner that he has purchased an extent of 35 cents in T.S.No.60, Pugalendhi Road, Rajapalayam Town, Virudhunagar District, and in respect of a portion of that property, a suit in O.S. No. 167 of 2015 on the file of the Additional Sub-ordinate Court, Srivilliputtur between the Petitioner and the Third Respondent for title and recovery of possession,



is pending, but assessment of the property tax has been made in the name of the Third Respondent. In that backdrop, the Writ Petition has been filed to cancel such assessment made and instead replace the name of the Petitioner in that regard.

3. The Hon'ble Supreme Court of India in ***Roshna 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.

4. In view of this legal position, it shall be incumbent upon the Second Respondent to await the outcome of the said suit in O.S. No. 167 of 2015 of the Additional Subordinate Court, Srivilliputtur and depending upon the same, further action for recording the name of the ownership of that portion of the property shall be taken by the Second Respondent. It shall be ensured by that Court that there is atleast one effective hearing every fortnight showing progress of the suit in the trial before the said Civil Court and



quarterly reports are sent in that regard to the Registrar (Judicial) of the Court till the matter is finally decided on merits and in accordance with law.

5. It is needless to clarify here that 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. That apart, in view of the doctrine of *lis pendens* embodied in Section 52 of the Transfer of Property Act, 1882, none of the parties to that suit shall alienate or create any form of encumbrances or third party interests in the property, without the prior permission of the Civil Court during its pendency. 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.



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In the result, the Writ Petition is disposed on the aforesaid terms.

No costs.

06.02.2023

NCC : Yes/No

Index : Yes/No

Internet : Yes/No

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Note: Issue order copy on 23.06.2023.

To

1. The District Collector,
Virudhunagar District,
Virudhunagar.

Copy to

1. The Registrar (Judicial),
Madurai Bench of Madras High Court,
Madurai – 625023.

2. T.Jayachandran,
S/o. S.E.S.Thangavelu,
69, Madathupatti Street,
Rajapalayam,
Virudhunagar District.

3. The Commissioner,

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Rajapalayam Municipality,
Virudhunagar District.

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4. The Secretary Mr. K.Thangasamy,
Kallar Kula Thondaiman Samoogam,
Aavarampatti,
Rajapalayam Town,
Virudhunagar District.



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P.D.AUDIKESAVALU,J.

SJ

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