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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.6 of 2014 and
MP(MD) No.2 of 2014

R.Selvarani ...Petitioner

Vs

1.The District Revenue Officer,
Kanyakumari District,
Nagercoil.

2.The Revenue Divisional Officer,
Nagercoil,
Kanyakumari District.

3.R.Jagadeesan
President – Sri Balavinayagar Temple.

4.Natesan
President – Sri Balavinayagar Temple. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records of the impugned order of the first respondent vide proceedings Ref: Na.Ka.4/21284/11, dated 14.11.2013 and the order of the second respondent vide proceedings

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Ref.Pe.Mu/Aa5/2452/2009, dated 26.04.2011, and quash the same.

For Petitioner : Mr.Niranjan S.Kumar
For R1 & R2 : Mr.G.V.Vairam Santhosh
Additional Government Pleader
For R3 & R4 : Mr.N.Dilip Kumar

O R D E R

This Writ Petition is filed as against the proceedings of the first and second respondents in Ref: Na.Ka.4/21284/11, dated 14.11.2013 and Ref.Pe.Mu/Aa5/2452/2009, dated 26.04.2011.

2.The land in R.S.No.191/5, to an extent of 0.11.0 Hectares in Madusoothanapuram Village stands in the name of Thiruvanantha Perumal, Ponnusamy, Perumal and Rejendran, as per the Settlement "A" Register. Subsequently, based on the settlement deed, dated 13.12.2006, the above land was sub-divided as 5A and 5B and patta for the land to an extent of 0.05.50 hectare (13 ½ cents) was transferred in favour of the petitioner by the Tahsildar, Agateeswaram. (Patta No.8565). Aggrieved over the same, the third respondent has filed a petition before the Revenue Divisional Officer, Nagercoil. The Revenue Divisional Officer, Nagercoil by his

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order in D.Dis/A5/2452/2009, dated 26.04.2011 cancelled the sub division effected to the petitioner. Challenging the same, the petitioner has filed an appeal before the District Revenue officer, Nagercoil. The District Revenue Officer has dismissed the appeal filed by the petitioner by his proceedings in Na.Ka.Ma/21284/2011 dated 14.11.2013. Aggrieved over the same, the present writ petition has been filed.

3.It is reported that the petitioner has instituted a suit in O.S.No.239 of 2012, before the Principal District Munsif Court, Nagarcoil for the relief of declaration with regard to the title over the subject property and the same was posted for judgment on 10.04.2023. The grievance of the petitioner is that the petitioner has instituted the above suit, when the proceedings are pending before the Revenue Divisional Officer and without considering the same, the Revenue Divisional Officer has cancelled the patta, which stands in favour of the petitioner and the same was also confirmed by the District Revenue Officer. Hence, both the orders of the Revenue

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Divisional Officer and the District Revenue officer are liable to be set aside.

4.The statement of the learned counsel for the petitioner on the pendency of the suit in O.S.No.239 of 2012 and it is also listed for delivery of judgment has been confirmed by the learned counsel for the respondents 3 & 4.

5.The learned Additional Government Pleader appearing for the respondents 1 & 2 by relying on the counter affidavit filed by the official respondents submits that after verification of all the revenue records, the orders of the Revenue Divisional Officer and the District Revenue Officer came to be passed. Hence, there is no need to interfere with the impugned order.

6.This Court considered the submissions made on either side and also perused the materials placed on record.

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7.There is a civil dispute over the subject property. The fact remains that the petitioner has instituted a suit in O.S.No.239 of 2012, before the Principal District Munsif Court, Nagercoil for the relief of declaration and the same was dismissed on 15.12.2020. Challenging the judgment and decree passed by the trial Court, the petitioner herein has preferred an appeal in A.S.No.4 of 2021, before the Principal Sub Court, Nagarcoil. The first Appellate Court, while allowing the appeal on 07.10.2021, has set aside the Judgment passed by the trial Court and remanded the suit for fresh consideration. It is now reported that the suit is listed before the trial Court on 10.04.2023, for judgment. The fact remains that the petitioner has already approached the competent civil Court even before the orders passed by the Revenue Divisional Officer. The specific case of the petitioner is that the Revenue Divisional Officer, instead of directing the parties to work out their remedy before the civil Court, erroneously set aside the order of the Tahsildar and the District Revenue Officer has also confirmed the order of the Revenue Divisional Officer.

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8. Considering the fact that the suit was remanded back to the trial Court on the appeal preferred by the petitioner herein and it is posted to 10.04.2023 for pronouncement of Judgment, this Court is inclined to dispose of this writ petition with a direction to the trial Court to decide the suit in O.S.No.239 of 2012 as expeditiously as possible, preferably within a period of four weeks from the date of receipt of a copy of this order. The parties are directed to maintain *Staus Quo* and they are also expected not to alienate the suit property till the disposal of the above suit.

9.With the above directions, this Writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

03.04.2023

NCC : Yes / No.
Index : Yes / No.
Internet : Yes / No.
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To

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Kanyakumari District,
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2.The Revenue Divisional Officer,
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Kanyakumari District.

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B.PUGALENDHI, J.

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Order made in
W.P(MD)No.6 of 2014 and
MP(MD) No.2 of 2014

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