



W.P.No. 28192 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2024

Coram:

THE HONOURABLE **MR. JUSTICE P. VELMURUGAN**

W.P.No. 28192 of 2019

WMP.Nos. 27859 & 27860 of 2019

S.Viswanathan

... Petitioner

Versus

1.The District Collector  
Tiruvannamalai District

2.The Revenue Divisional Officer  
Cheyyar – 604 407

3.The Tahsildar  
Vandavasi Taluk  
Vandavasi  
Tiruvannamalai District

4. The Assistant Commissioner  
HR & CE Department  
Tiruvannamalai  
Tiruvannamalai District.

5. E.Subramani

... Respondents



W.P.No. 28192 of 2019

**Prayer :** Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records relating to the proceedings of the 1<sup>st</sup> respondent in his office reference Na.Ka.M2/19319/2017, dated 19.03.2018 quash the same and direct the respondents 1 to 3 to restore the name of the petitioner Samudayam in the Revenue Records with respect to the lands comprised in S.No. 181, Keelkodungalur Village, Vandavasi Taluk, Tiruvannamalai District.

For Petitioner : Mr.P. Mani

For RR 1 to 3 : Mr.T. Arunkumar  
Additional Government Pleader

For R4 : Mr.K. Karthikeyan  
Government Advocate (HR&CE)

For R5 : Mr.S. Kumaradevan

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### **ORDER**

This writ petition is filed for quashing the impugned order passed by the first respondent in Ref. Na.Ka.M2/19319/2017, dated 19.03.2018 and for consequential direction to the respondents 1 to 3 to restore the name of the petitioner viz., Samudayam in the Revenue Records with respect to the lands comprised in S.No.181, Keelkodungalur Village, Vandavasi Taluk, Tiruvannamalai District.



W.P.No. 28192 of 2019

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2. The case of the petitioner is that the land measuring 9.02 acres comprised in S.No. 181, Keelkodungalur Village, Vandavasi Taluk, Tiruvannamalai District, is being enjoyed by the petitioner Samudhayam for more than 100 years. Subsequently, the 3rd respondent/Tahsildar issued Patta in favour of the local temple during the implementation of UDR scheme. The Assistant Commissioner of HR & CE Department, Vellore, illegally auctioned the live fence trees in the said land. Pursuant to the same, the petitioner Samudhayam filed a suit in O.S.No.749 of 1991 on the file of the Principal District Munsif Court, Arni, against the respondents 1, 3 and 4 for declaration and permanent injunction. As per the decree dated 25.11.1997, the 3rd respondent/Tahsildar granted Patta in favour of the petitioner Samudhayam vide proceedings in Ref.Na.Ka.A5.707/98, dated 07.04.1998.

3. While that being the case, the 2nd respondent/RDO transferred the Patta in the name of Sengunthar Samudhaya Nala Sangam without any notice to the petitioner. Therefore, the petitioner filed W.P.No. 18489/2009 to quash the order passed by the 2nd respondent and the same



W.P.No. 28192 of 2019

was ordered holding that the 2nd respondent is not the competent authority to make entry in the Patta Pass Book and quashed the order dated 26.08.2009 passed by the 2nd respondent/RDO and further directed the 3rd respondent/Tahsildar to transfer the Patta in the name of the petitioner Samudhayam as per the judgment and decree passed in O.S.No. 749 of 1991.

4. In the meanwhile, the appeal in A.S.No. 24 of 1998 was filed against the judgment and decree in O.S.No.749 of 1991, was allowed and the suit was remanded back to the trial Court and the suit was transferred in Tr.O.P.No. 89 of 2006 and the same was dismissed for default on 05.02.2010. Then, the petitioner filed application to restore the suit, the same was dismissed on 24.03.2015. Aggrieved by the same, the petitioner Samudhayam filed CRP.No. 2275 of 2015 and the same was allowed by order dated 10.10.2018 and the suit is pending before the learned District Munsif Cum Judicial Magistrate Court, Vandavasi. The 5th respondent also filed WP.No. 17965/2017 seeking a direction and the same was ordered to consider the representation of the 5th respondent. In the



W.P.No. 28192 of 2019

meanwhile, the impugned order passed by the 1st respondent, dated 19.03.2018 is illegal and contrary to law. However, the first respondent is not the competent authority to make changes in respect of entry in the Patta Pass Book. Moreover, the 1st respondent passed the impugned order without following the principles of natural justice particularly when the civil suit is pending in respect of Title. Hence, the petitioner has come forward with the present writ petition under Article 226 of the Constitution of India.

5. The learned Counsel for the petitioner submitted that he obtained decree in O.S.No.749 of 2019 dated 25.11.1997 and the Revenue Authority changed the name of the petitioner Samudhayam in the Patta Pass Book without considering the above suit is pending before the competent civil Court and the learned Counsel prays to set aside the impugned order passed by the first respondent dated 19.03.2018 is liable to be set aside.



W.P.No. 28192 of 2019

WEB COPY

6. The learned Counsel for the respondents submitted that as against the said decree dated 25.11.2019, the respondents preferred an appeal in A.S.No. 24 of 1998 before this Court and the judgment and decree passed by the trial Court are set aside and remitted back to the Court below for fresh trial. In the meanwhile, the suit was dismissed for default and thereafter, restoration petition was filed along with condone delay petition and the same was dismissed. Challenging the same, the petitioner has filed CRP.No. 2275 of 2014 before this Court and it was allowed on 10.10.2018 and the suit is pending after restoration of the suit.

7. On perusal of the records, it reveals that the suit is pending till not attaining the finality since the disputes between the parties are in right and title. Therefore, the petitioner has to raise all the points before the competent Civil Court to decide right and title of the parties concerned. Therefore, any order passed by the Revenue Authority will not bind upon the parties concerned till the outcome of the suit proceedings before the competent Civil Court. Therefore, in such circumstances, no prejudice would be caused to the petitioner since already the petitioner invoked the



W.P.No. 28192 of 2019

civil jurisdiction. In the said circumstances, it is open to the petitioner to workout his remedy before the competent Civil Form in the manner known to law.

8. With the above terms, this writ petition is disposed of. Consequently, connected Miscellaneous Petitions are closed. No costs.

**12.03.2024**

MSM

To

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Tiruvannamalai District

2.The Revenue Divisional Officer  
Cheyyar – 604 407

3.The Tahsildar  
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Vandavasi  
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W.P.No. 28192 of 2019

**P.VELMURUGAN, J**

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W.P.No. 28192 of 2019

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