BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :26.03.2024

CORAM:

THE HONOURABLE **MR.JUSTICE D.KRISHNAKUMAR**
AND
THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

W.A.(MD)No.501 of 2024
and
C.M.P.(MD)No.4034 of 2024

M/s.K.U.Thermal Power Private Ltd.,
Having registered office at,
8-2-277/a/3/1,2,3, 1st Floor,
Kingston Heights, Road No.2,
Banjara Hills, Hyderabad – 500 034,
Represented by its Authorized Signatory,
K.Suresh ... Appellant/Petitioner

-Vs-

1.The District Revenue Officer,
Thoothukudi District.

2.The Revenue Divisional Officer,
Kovilpatti, Thoothukudi District.

3.The Tahsildar,
Ottapidaram Taluk,
Thoothukudi District.

4.Liyakath Alikhan ... Respondents/Respondents

**PRAYER:** Appeal filed under Clause 15 of Letters Patent, against the order passed in W.P(MD)No.19511 of 2021 dated 05.01.2023.

For Appellant : Mr.C.Jeganathan
For R-1 to R-3 : Mr.S.P.Maharajan, Special Government Pleader
For R-4 : Mr.S.Saravanan

**JUDGMENT**

**[Judgment of the Court was delivered by *D.KRISHNAKUMAR, J.*]**

This Writ Appeal is directed against the order of the Writ Court, dated 05.01.2023 made in W.P(MD)No.19511 of 2021.

2. The brief facts of the case are as follows:

(i) There is a dispute between the appellant and the fourth respondent in respect of the property which originally belonged to the fourth respondent. The appellant has purchased the said property from the subsequent purchasers and thereafter, he effected mutation in his favour. Therefore, the fourth respondent has filed a petition before the Revenue Divisional Officer, who in turn, issued notice to the appellant. However, according to the appellant, the said notice was sent to some other address and as a result, the appellant could not appear before the Revenue Divisional Officer. Subsequently, vide the impugned order, dated 27.05.2020, the Revenue Divisional Officer, had set aside the mutation made in favour of the appellant and directed restoration of patta in favour of the fourth respondent. The Revenue Divisional Officer accepted the version projected by the fourth respondent in *toto*.

(ii)Aggrieved by the same, the appellant has filed a revision before the District Revenue Officer, Thoothukudi. The District Revenue Officer, Thoothukudi, vide order dated 20.09.2021, confirmed the order of the Revenue Divisional Officer. Challenging the same, the appellant has filed the writ petition.

(iii) In the meantime, the fourth respondent has also filed a civil suit in O.S.No.214 of 2016 before the Additional District Munsif Court, Thoothukudi and vide judgment and decree, dated 10.06.2020, the said suit was decreed in toto. Challenging the said judgment and decree, the appellant has also filed an appeal in A.S.No.14 of 2020 on the file of the Subordinate Court, Thoothukudi and the same is pending

(iv) In such circumstances, the Writ Court has dismissed the writ petition stating that since the jurisdictional civil Court had sustained the claim of the fourth respondent, the question of interfering with the impugned orders passed by the Revenue Authorities does not arise. Challenging the said order of the Writ Court, the appellant/writ petitioner has filed this writ appeal.

3. We have heard the learned counsel appearing on either side and perused the materials placed before us.

4. It is seen that there is a dispute between the appellant and the fourth respondent in respect of change of patta in respect of the property in question. Further, the appeal filed by the appellant is also pending in A.S.No.14 of 2020 on the file of the Subordinate Court, Thoothukudi.

5. In the light of the decision of the Division Bench of this Court in ***Kuppuswami Nainar Vs. The District Revenue Officer and others*** reported in ***(1995) 1 MLJ 426***, when a civil dispute is pending between the parties, the same can only be agitated before the Civil Court only and not under Article 226 of the Constitution of India,

wherein the Division Bench has held as follows:-

> *"3.No provision is brought to our notice in the Standing Orders of the Board of revenue taking away the jurisdiction of the civil Court to adjudicate upon the question of title relating to immovable property. Revenue officers in a patta proceedings may express their views on the question of title, but such expression or decision is not conclusive and it is only intended to support their decision for granting patta. Ultimately, it is the civil Court which has to adjudicate the question as to whether the person claiming patta is the title-holder of the land. Even if the revenue authorities decide the question of title, that will not in any way affect the jurisdiction of the civil Court, which has to decide the question without reference to the decision of the revenue authorities.*
>
> *4.Now the question for consideration is, having regard to the fact that the District Revenue Officer has expressed his opinion on the question of title whether the order under question should be interfered with. It may be pointed out here that in a petition under Article 226 of the Constitution the question of title regarding immovable property cannot properly be gone into, because a mass of evidence may be required for adjudicating the question of title. Even if we are to interfere with the order under appeal, it is the other party, who has to go to a civil Court and establish title. As far as the exercise of jurisdiction*

*under Article 226 of the Constitution is concerned, it does not matter to it whether 'A' party goes to civil Court or 'B' party. Therefore, we are of the view that the question of title has to be decided by the civil Court, without reference to the order under question. Hence, we decline to interfere with the order challenged in the Writ Petition. However, we make it clear that in the event a suit for declaration of title and for appropriate consequential relief is filed, the civil Court shall decide such a suit, without reference to the findings recorded by respondents 1 and 2 in the impugned orders, but only on the basis of the pleadings of the parties and evidence adduced by them before it. We also make it clear that any opinion expressed by the learned Single Judge, contrary to what we have stated above, stand modified accordingly. With these observations, the Writ Appeal is dismissed."*

6. In view of the legal principles of law laid down by this Court (cited supra), we are of the view that the appellant can agitate his claim before the civil Court where the appeal filed by the appellant is pending. The civil Court shall decide the appeal independently without being influenced by any of the observations made by the Revenue Authorities, Writ Court or this Court.

7. With the above observations, this writ appeal stands disposed of. No Costs. Consequently, connected Miscellaneous Petition is closed.

**[D.K.K., J.] & [R.V., J.]**

**26.03.2024**

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

**PM**

**To:**

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2.The Revenue Divisional Officer,
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3.The Tahsildar,
Ottapidaram Taluk,
Thoothukudi District.

**D.KRISHNAKUMAR, J.**

**AND**

**R.VIJAYAKUMAR, J.**

**PM**

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