IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2015

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.8634 of 2014

1.Sugumar Kulandaivel
2.P.Jayakumar
3.V.R.Vijay Anand
4.S.Sivaraj .. Petitioners

v.

1.The District Revenue Officer
Coimbatore.

2.The Revenue Divisional Officer
Coimbatore.

3.The Thasildar
Coimbatore.

4.Sirajudeen
5.Nazeer
6.R.Hussain
7.J.Iliyas .. Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorari to call for the records of the 1st respondent under Na.Ka.No.26181 of 2010/E1 dated 16.8.2013 and quash the same.

For Petitioners : Mr.Nathezhdha D.Rajasok
For Respondents : Mr.R.Vijayakumar, AGP for R1 to R3
Mr.M.Vijayakumar, for R4 to R6
Mr.V.Sivakumar, for R7

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ORDER

The petitioner has challenged the order passed by the first respondent dated 16.08.2013. The said order was passed on revision petition filed by the petitioner challenging the order passed by the second respondent granting patta in favour of respondents 4 to 7.

2. It is the case of the petitioners that the first petitioner purchased an extent of 5.08 acres of land in S.F.No.184/1 under sale deed dated 23.06.1998 and sold an extent of 1.47 acres to the fourth petitioner herein. The first petitioner also purchased an extent of 4.30 acres of land in S.F.No.184/2 under sale deed dated 08.01.1999. Both the lands are situated in Mathampatti Village, Coimbatore District. The second and third petitioners purchased an extent of

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5.20 acres in S.F.No.184/3 in Mathampatti village under a sale deed dated 03.07.2000. The fourth petitioner purchased an extent of 5.08 acres of land in S.F.No.184/1 by sale deed dated 08.01.1999 and he also purchased an extent of 1.40.1/2 acres in S.F.No.184/2 in Mathampatti village under another sale deed dated 08.01.1999 and that the petitioners are cultivating their respective lands without any interference.

[a] According to the petitioners, the respondents 4 to 6 are total strangers and they appointed the 7th respondent as Power of Attorney agent to file an application before the third respondent to remove the names of the petitioner from patta and include their names. The third respondent after full fledged enquiry dismissed the application, aggrieved over which the respondents 4 to 7 preferred an appeal to the second respondent and the second respondent, by order dated 22.10.2012 allowed the appeal holding that the respondents 4 to 7 are entitled to patta. Aggrieved by such order, the petitioners preferred a revision before the first respondent and enquiry was conducted and it was stated that the petitioners have filed three suits in O.S.Nos.324, 326 and 328 of 2011 on the file of the District Munsif, Coimbatore for a declaration and permanent injunction against the respondents 4 to 7 and the copies of the plaints were also placed for consideration. The first respondent

without adjudicating the revision petition on merits, dismissed the same holding that the parties have established their right in the civil Court.

3. The learned counsel for the petitioners submits that since the civil suits are pending and the original authority, namely the Tahsildar rejected the application, the first respondent ought to have allowed the revision and then directed the parties to agitate their rights before the civil Court. From the order passed by the second respondent dated 22.10.2012 which was challenged by the petitioners by filing revision before the first respondent, it is seen that the application for grant of patta made by the respondents 4 to 7 was in 2010 and there is a report of the Assistant Director, District Survey Office, Coimbatore dated 24.06.2010.

4. Considering the same and the submissions made on either side and the documents produced, an order was passed, and by the time the revision was filed and heard by the first respondent, the suits have been numbered and therefore, the first respondent rightly contended that the matter has to be decided by the civil Court.

5. The learned counsel for the petitioners submitted that the first respondent ought to have allowed the revision setting aside the entry in the patta and thereafter, directed the parties to work out their rights before the civil Court. In my view, the same is superfluous for the simple reason that, the question of title cannot be decided by the revenue official. Therefore, even assuming that the second respondent has passed an order in favour of the respondents 4 to 7 granting patta, that alone will not confer title on respondents 4 to 7. In any event, the petitioners having filed a

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suit for declaration and permanent injunction, are entitled to establish their title and interest over the property independently by producing oral and documentary evidence. Likewise, the respondents 4 to 7 who are defendants, are also entitled to produce oral and documentary evidence and contest the suit. It is observed that the civil Court while considering the title, shall not be influenced in any manner by the orders passed by the revenue officials, but decide the question of title based on oral and documentary evidence placed before the Court.

Accordingly, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gms
To

1.The District Revenue Officer
Coimbatore.

2.The Revenue Divisional Officer
Coimbatore.

3.The Thasildar
Coimbatore.

1 cc to M/s.Sarvabhauman ,Advocate, SR.No.8264
1 cc to Mr. M.Vijayakumar,Advocate, SR.No.8010
1 cc to Mr. V.Sivakumar,,Advocate, SR.No.8011
1 cc to Government Pleader,Sr.No8066

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