

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2015

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.31962 of 2013

D.Saroja

.. Petitioner

v.

1.The Tahsildar
O/o the Tahsildar
Madhavaram Taluk
Tiruvallur District
Madhavaram, Chennai 60.

2.R.Kasi Viswanathan

... Respondents

[R2 impleaded as per order dated 29.11.2013 in M.P.No.1/2013]

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of mandamus directing the respondent to take appropriate action on the petitioner's complaint dated 11.05.2012 on the basis of the petitioner's representation dated 19.11.2013.

For Petitioner : Mr.T.Arockiadass

For Respondents : Mr.S.Gunasekaran,
Govt.Advocate, [for R1]
Mr.R.Sagadevan, [for R2]

ORDER

Heard Mr.T.Arockiadass, learned counsel for the petitioner; Mr.S.Gunasekaran, learned Government Advocate appearing for the first respondent and Mr.R.Sagadevan, learned counsel for the second respondent and carefully perused the materials placed on record.

2. The petitioner, in this writ petition, seeks for a direction to the respondent to take appropriate action on his complaint/representation dated 11.05.2012 and 19.11.2013.

3. The petitioner is aggrieved by the grant of patta in favour of the second respondent in respect of the property in question. According to the petitioner, he has purchased the property in 1984 from Mrs.T.S.Thirupanasundhari, W/o Sundaram and is in peaceful possession and enjoyment of the same. The second respondent is said to have purchased the property after the demise of Mrs.T.S.Thirupanasundhari in 2007 and it is submitted that the

document is a forged document and based on the forged document, the second respondent has obtained patta. Now the petitioner seeks for cancellation of the patta granted to the second respondent, and in that regard he has submitted a representation, which he now seeks to expedite.

4. It is submitted by the learned counsel for the petitioner that when the petitioner sought for information under the provisions of the Right to Information Act, the Information Officer, by letter dated 13.08.2012, informed the petitioner that there is no file No.TK/248/1417 dated 23.07.2007, which is the file number relating to the second respondent patta. Therefore, it is submitted that the Revenue Officials have also colluded with the second respondent.

5. The learned counsel for the second respondent submitted that after the writ petition is filed, the petitioner has filed a comprehensive suit in O.S.No.62 of 2014 on the file of the 18th Assistant City Civil Court, Chennai for declaration of the sale deed executed in favour of the second respondent by son of Mrs.T.S.Thirupanasundhari, as null and void and for consequential reliefs. It is further submitted that the suit is ripe for trial and at this stage, the question of the Tahsildar conducting enquiry in the matter does not arise.

6. After hearing, the learned counsel for the parties and perusing the materials placed on record, this Court is of the view that the petitioner has rightly approached the civil Court seeking for declaration and consequential reliefs. The second respondent claims right over the property pursuant to a document executed in his favour in 2007 and if the document is held to be null and void by the civil Court of competent jurisdiction, then no right will accrue to the second respondent.

7. With regard to the question of grant of patta, admittedly, the petitioner did not apply for patta and no patta was granted in his favour, though it is stated that he purchased the property in 1984. Therefore, the question of issuing notice to the petitioner before grant of patta to the second respondent based on 2007 document does not arise. In such circumstances, no useful purpose would be served by directing the Tahsildar to enquire into the matter, since already the petitioner is before the civil Court for appropriate relief. Furthermore, the patta issued in favour of the second respondent is of no significance.

8. So far as the suit is concerned, because the suit seeks to declare the sale deed executed in 2007 to the second respondent as null and void, the patta that will be issued subsequently by the Revenue Department can have little bearing on the defence that would be raised by the second respondent in the suit. In any event, the second respondent cannot utilise the patta for the purpose of validating his transaction in 2007.

9. In the light of the above, the writ petition is disposed of by directing the first respondent to keep in abeyance the complaint given by the petitioner till a decision is arrived in O.S.No.62 of 2014 and the trial Court is directed to consider the case based on the oral and documentary evidence placed before it and the second respondent shall not be entitled to rely upon the patta issued in his favour for the purpose of establishing his right over the property and should independently prove the same with the oral and documentary evidence.

With the above observation, the writ petition is disposed of. No costs.

Sd/-
Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

gms

To

The Tahsildar
O/o the Tahsildar
Madhavaram Taluk
Tiruvallur District
Madhavaram, Chennai 60.

Copy to

The XVIII Assistant Judge
City Civil Court, Chennai

1 cc to Government Pleader, Sr. 17610
1 cc to M/s. Dass Law Associates, sr. 17503
1 cc to Mr.R. Sagadevan, Advocate, sr. 17417

W.P.No.31962 of 2013

KJI (CO)
kk 10/4