BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 24.08.2017
CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A.(MD)No.715 of 2015
and
M.P.(MD)Nos.1 & 2 of 2015

P.S.Abdul Kadar ... Appellant

Vs.

1.The District Revenue Officer,
Sivagangai District.

2.S.Danapal M.A.B.L.
Now working as District Revenue Officer,
Sivagangai District.

3.The Tahsildar
Thiruppuvanam Taluk
Sivagangai District.

4.V.Gurusamy
5.T.Thandilingam ... Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letter Patent, against the order passed in W.P.(MD)No.5008 of 2014 dated 30.03.2015 on the file of this Court.

Prayer in WP(MD). 5008/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari calling for the records relating to the impugned order of the 1st Respondent in Proceedings Pa.Mu. B4/11154/2013 dated 13.02.2014, quash the same.

For Appellant : Mr.Veera Kathiravan
Senior Counsel
for C.Jeganathan
For Respondents 1 to 3 : Mr.T.S.Mohammed Mohideen
Additional Government Pleader
For Respondents 4&5 : Mr.J.Lawrence

JUDGMENT
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[Judgment of the Court was delivered by **G.R.SWAMINATHAN, J.**]

The unsuccessful writ petitioner is on appeal challenging the order dated 30.03.2015 made in W.P.(MD)No.5008 of 2014.

2.The case of the appellant is that he purchased 1.14 acres of land in Survey No.288/3 in Melarangiam Village, Sivagangai District vide sale deed dated 17.03.2008 from one Mr.Ramamoorthy son of Pitchai Thevar and his sons. He applied for transfer of patta and the same was granted vide Patta No.2127 in his favour. The father of the appellant's vendor one Pitchai Thevar in turn had purchased the property as early as on 20.05.1961 from one Lakshmi@Kamatchiammal and Thandammal vide document no.1089/1961. While so, the fourth respondent herein claimed that the property belonged to one Muthammal, and that he was the grand son of the said Muthammal. He filed a petition before the District Revenue Officer, Sivagangai District. The first respondent by order dated 13.02.2014 cancelled the mutation of patta made vide order dated 24.07.2008 in favour of the appellant herein. This order passed by the District Revenue Officer, Sivagangai District was questioned by the appellant in W.P.(MD)No.5008 of 2014.

3.The learned Judge took the view that the issue is to be adjudicated only before the Civil Court and dismissed the writ petition. Aggrieved by the dismissal of the writ petition, the present Writ Appeal has been filed.

4.Heard the learned Senior Counsel for the appellant and the learned counsel for the respondents.

5.It is not in dispute that the patta was issued in the name of the appellant following the execution sale deed dated 17.03.2008 in his favour. The Patta earlier stood in the name of the father of the vendor namely Pitchai Thevar. This mutation had taken place in the year 2008. While so, the fourth respondent herein lodged the petition for cancellation of the said patta before the District Revenue Officer, Sivagangai District. The said petition does not anywhere allege that mistake occurred during UDR. But the first respondent chose to treat the petition filed by the fourth respondent herein as a Revision Petition filed for rectifying the UDR mistake. If issuance of patta in favour of the appellant was erroneous, the mistake cannot be straight away challenged before the District Revenue Officer. The District Revenue Officer will have the jurisdiction to entertain the Revision Petition only to rectify the mistake committed during UDR. It is thus clear that the first respondent usurped the jurisdiction that was otherwise not available in the facts and circumstances of this case. After assuming jurisdiction over the subject matter, the first respondent has dealt with the matter as if he is acting like a Civil Court.

6.The case of the fourth respondent is that the property in question belonged to one Muthammal and that he is the legal heir of the said Muthammal. The fourth respondent filed type set of papers enclosing the copy of the death certificate of the said Muthammal. The said Muthammal is said to have died on 04.05.1990 but it is registered only on 25.10.2013. Similarly, the mother of the fourth respondent namely, Thandammal who is said to be a daughter of Muthammal had died on 22.04.1980 but the same was registered only on 23.10.2015. There is nothing on record to show the fourth respondent is the descendent of the said Muthammal. It has been consistently held that when there are serious title disputes, the Revenue Authorities should relegate the parties to work out their right before the competent Civil Court.

7.In the instant case, the first respondent chose to entertain the petition from the fourth respondent and adjudicate controversy in question and cancelled the patta in favour of the appellant. He also granted patta to be issued jointly in favour of the fourth and fifth respondents herein. Based on the said order dated 13.02.2014, revenue records have also changed in favour of the fourth respondent.

8.Since we are of the opinion that the order dated 13.02.2014 passed by the first respondent is without jurisdiction, we set aside the order dated 30.03.2015 dismissing the W.P.(MD) No.5008 of 2014. The order passed by the first respondent impugned in W.P.(MD)No.5008 of 2014 is also set aside. Consequently, the proceedings that have taken place pursuant to the said order dated 13.02.2014 also are set aside. Since there are serious disputes between the writ petitioner and the fourth respondent, in the interest of justice, we direct the restoration of the status-quo that prevailed prior to 17.03.2008. The fourth respondent is given liberty to move the competent Civil Court with one month from the date of receipt of a copy of this order.

9.The parties are not entitled to create any encumbrance or alienate the subject matter of this dispute. The Civil Court shall decide the lis uninfluenced by any of the observations made in the order dated 13.02.2014 passed by the first respondent herein. The Civil Court shall take an independent view of the matter based on the evidence adduced by the contesting parties. If the fourth respondent institutes the Civil Suit as indicated above, the same shall be disposed of within one year from the date of institution. If the fourth respondent fails to file a suit within one month from the date of receipt of a copy of this order, it is made clear that the restraint imposed on the appellant herein and the direction to restore the status-quo that prevailed prior to 17.03.2008 in the revenue records would stand vacated.

10.This Writ Appeal is allowed as indicated above. No Costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1.The District Revenue Officer,Sivagangai District.

2.S.Danapal M.A.B.L.
Now working as District Revenue Officer,
Sivagangai District.

3.The Tahsildar
Thiruppuvanam Taluk
Sivagangai District.

+1cc to M/S.VEERA ASSOCIATES, Advocate SR.No.74837
+1cc to M/S.J.LAWARANCE, Advocate SR.No.75178
+1cc to Special Government Pleader, SR.No. 74911

rmi
MAS/SV-MMS/SAR2:14.09.2017:4P-7C

JUDGMENT MADE IN
W.A.(MD)No.715 of 2015
24.08.2017