



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 25.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

WEB COPY

W.P.(MD) No.4084 of 2015

and

M.P(MD)No.1 of 2015

P.Sellappan

: Petitioner

Vs.

1.The District Revenue Officer,
Karur District,
Karur.

2.The Revenue Divisional Officer,
Karur District,
Karur.

3.The Deputy Tahsildar,
Thanthoni Taluk,
Karur District.

4.Pandian

: Respondents

Prayer : This Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus to call for the records relating to the proceedings of the first respondent dated 20.01.2015 made in Na.Ka.No.C3/2536/2014 quash the same and consequently directing the third respondent to restore the patta No.742 in the name of the petitioner in respect of S.F.No.467/B to the extent of 2.280 acres situated at Thornakalpatti village, Thanthoni Panchayat, Karur Taluk and District.

For Petitioner : Mr.T.Vallinayagam
Senior Counsel for
Mr.N.Shanmugaselvam

For Respondents : Mr.K.Maheshraja
Government Advocate
for R1 to R3

Mr.Isaack Mohanlal
Senior Counsel for
Mr.K.Sellathurai for R4

**ORDER**

This writ petition has been filed by the petitioner challenging the proceedings of the first respondent, dated 20.01.2015, made in Na.Ka.No.C3/2536/2014 and seeking a consequential direction to the third respondent to restore the patta No.742 in the name of the petitioner in respect of S.F.No.467/B to the extent of 2.280 acres situated at Thornakalpatti village, Thanthoni Panchayat, Karur Taluk and District.

2. According to the petitioner, he purchased the subject property along with other properties by a registered sale deed, dated 03.07.1998 and was issued with joint patta No.742. However, the petitioner seems to have approached the third respondent to enter his name in the computer patta. But the third respondent, by his proceedings dated 10.12.2012, rejected the claim on the ground that the fourth respondent herein is also claiming right over the said property. After coming to know about the order passed by the third respondent dated 10.12.2012, the petitioner approached the second respondent by way of appeal against the order passed by the third respondent, dated 10.12.2012. The second respondent, after thorough enquiry, passed an order dated 03.01.2014 in Na.Ka.No.A1/3506/2012 granting patta to the fourth respondent for the subject property and rejected the claim of the petitioner by confirming the order passed by the third respondent/Tashildar, dated 10.12.2012. Aggrieved against the same, the petitioner has approached this Court with the above said prayer.

3. The learned Senior Counsel appearing for the petitioner would strongly contest the order passed by the second respondent by saying that Rule 4(4) of the Tamil Nadu Patta Pass-Book Rules, 1987, has been violated, since the second respondent attempted to settle the title dispute as between the petitioner and the fourth respondent. He would particularly rely on the expression 'laws of succession' as mentioned in Rules 4(4) of the said Rules stating that the Revenue Authority cannot decide the succession issue and it is only for the civil Court, which is competent to decide such issues.

4. The learned Senior Counsel would further contend that already a suit in O.S.No.252 of 2014 was filed by the petitioner seeking declaration of title and for permanent injunction and the same is pending before the District Munsif Court, Karur, and therefore, pending the suit, the respondents' actions for grant of patta in favour of the fourth respondent is nullity in the eye of law and therefore, urged this Court to interfere with the order passed by the respondents.

<https://hccasesearch.gov.in/>

5. Per contra, Mr. Isaac Mohanlal, learned Senior Counsel



appearing for the fourth respondent would contend that the original suit in O.S.No.252 of 2015 was actually filed after the order was passed by the second respondent on 03.01.2012 and as per Rules 4(4) of Patta Pass Book Rules, any dispute concerning ownership of patta, which is already pending in a Court and only in such event the order has to be obtained from the competent Civil Court. In the instant case, the suit having been laid only after the order passed by the second respondent/Revenue Divisional Officer in favour of the fourth respondent, the petitioner cannot rely on the said provision. The learned Senior Counsel appearing for the petitioner would further contend that once the petitioner has chosen to approach the civil Court seeking declaration of title to the subject property, it is for him to work his remedy before the civil Court instead of pursuing his remedy before the revenue authorities.

6.I have given my anxious consideration to the rival submissions made by counsels appearing for the parties.

7.From the above narrative, it is clear that the civil suit is pending on the file of the District Munsif Court, Karur, where the parties, namely, the petitioner and the fourth respondent respectively can establish their title about the subject property. According to the learned Senior Counsel appearing for the petitioner, the suit is ripe for trial. He further contended that the fourth respondent having been granted patta overlooking the claim of the petitioner, he would have unfair advantage during the trial of the suit as pattadhar.

8.In view of the above narrative, I am of the considered view that it is for the parties to put forward their claims and objections before the civil Court where the suit in O.S.No.252 of 2012 is pending for trial.

9.Considering the submissions made on behalf of both the parties, this Court passes the following order:-

(a) both the petitioner and the fourth respondent shall not rely on the mutated revenue records pending final out come of the original suit in O.S.No.252 of 2012. Particularly, the fourth respondent shall not take any advantage of the patta granted in his favour.

(b) It is needless to mention that ultimately the parties are governed by the out come in the original suit and therefore, the present position cannot enure to the advantage or disadvantage of either the petitioner or to the fourth respondent.

<https://hcservices.ecourts.gov.in/hcse/jcs/> Since it was mentioned that the suit in question is ripe for trial, the learned District Munsif, Karur, is directed to complete the trial and



dispose of the suit within a period of six months from the date of receipt of a copy of this order.

(d) It is made clear that both the petitioner and the fourth respondent and others concerned shall co-operate with the trial Court for expeditious disposal of the suit. It is also made clear that this Court is not expressing any views on the merits and demerits of the respective claims and objections of the petitioner as well as the fourth respondent herein.

10. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AS)

/True copy/

Sub Assistant Registrar

To

1. The District Revenue Officer,
Karur District,
Karur.

2. The Revenue Divisional Officer,
Karur District,
Karur.

3. The Deputy Tahsildar,
Thanthoni Taluk,
Karur District.

4. The District Munsif,
Karur.

+1 cc to Mr. Special Government Pleader, SR.No. 54305
+1 cc to Mr. N. Shanmuga selvam, Advocate in SR.No. 54215
+1 cc to Mr. K. Sellathurai, Advocate in SR.No. 53910

skn

AE/MR/SAR3/17.05.2017/2P/8C

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and

M.P (MD) No. 1 of 2015
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