BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.P.(MD).No.3805 of 2013
and
M.P.(MD).Nos.1 and 2 of 2013
and
W.M.P.(MD)No.3115 of 2017

K.Ramasamy ... Petitioner

Vs.

1.The District Revenue Officer,
Sivagangai District,
Sivagangai.

2.The Tahsildar,
Ilayangudi Taluk,
Sivagangai District.

3.P.Raman @ Ramu
4.S.Ibramsha ... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarifi, calling for the records relating to the impugned order dated 04.12.2012 passed by the first respondent in reference number B1-21469/2012 and quash the same.

For Petitioner :Mr.J.Barathan

For Respondents 1 & 2 :Mr.S.Satheeshkumar
Additional Government pleader.

For 3rd Respondent :Mr.P.Muthu Samy

For 4th Respondent :No appearance

ORDER

Challenging the order of the first respondent cancelling the patta that was issued to the petitioner and restoring the revenue register to the original position, the present writ petition has been filed.

2.According to the petitioner, the third respondent P.Raman @ Ramu, Son of Ponnalagu appears to have filed a petition before the first respondent seeking cancellation of the patta issued to the petitioner contending that the original owner Kadher Ammal had mortgaged the property with him in the year 1979 as per a registered mortgage deed dated 23.05.1979. The said mortgage has not been redeemed. However, it appears that after the death of the kadher Ammal, the fourth respondent who is the brother of Kadher Ammal got revenue records transferred in his name and had filed a suit in O.S.No.45 of 2010 seeking permanent injunction restraining the third respondent, his father and their men from interfering with his peaceful possession and enjoyment of the property. Pending the said suit, it appears that the fourth respondent sold the property on 16.03.2011 to the petitioner herein.

3.Relying on the said sale deed, the second respondent had transferred the patta in the name of the petitioner. Since the transfer is effected without notice to the third respondent, he had filed revision application before the first respondent seeking cancellation of the patta issued to the petitioner. The first respondent by the impugned order directed cancellation of the patta issued to the petitioner and has restored the revenue records to the original possession. This order is impugned in this writ petition.

4.Mr.J.Barathan, learned counsel appearing for the petitioner would contend that proviso to Section 13 of the Tamil Nadu Patta Pass Book Act, 1983, the revisional authority should not pass orders prejudicial to any person without notice to such person.

5.From the records, it is not shown that the petitioner was notified about the proceedings before the first respondent. Be that as it may, learned counsel appearing for the third respondent has produced a typed set of papers, containing the judgment and decree in O.S.No.45 of 2010 filed by the fourth respondent. It appears from the said judgment and decree that the fourth respondent has claimed the property under alleged Hiba from Kadher Ammal made in the year 1985.

6.The Trial Court has framed issue on the validity of Hiba and has found that there was no such Hiba. On such finding the Trial Court has dismissed the suit for injunction filed by the fourth respondent. The son of Kadher Ammal was also examined as R.W.3 in the said suit.

7.It is also seen that the appeal against the judgment and decree in O.S.No.45 of 2010 filed by the vendor of the petitioner, namely, the fourth respondent herein in A.S.No.75 of 2013 was also dismissed by the lower Appellate Court on 05.08.2015.

8.It is now stated that the second appeal in S.A.(MD)No.605 of 2016 was pending on the file of this Court. As on today, the petitioner's vendor has not proved his title to the property in question. In view of the dismissal of the suit filed by the petitioner's vendor, the order cancelling the transfer of patta and restoring the revenue record to its original position does not require any interference by this Court under Article 226 of the Constitution of India. It is however made clear that the revenue authorities will be bound by the decision of this Court in second appeal.

9.With the above observation, this writ petition is disposed of. No costs. Consequently, M.P(MD)Nos.1 and 2 of 2013 and W.M.P(MD)No.3115 of 2017 are closed.

Sd/-
Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To:

1.The District Revenue Officer,
Sivagangai District,
Sivagangai.

2.The Tahsildar,
Ilayangudi Taluk,
Sivagangai District.

+1cc to The Special Government Pleader in SR. No.60003
+1cc to Mr.T.R.Jeyapalam Advocate in SR. No.59838
+1cc to Mr.P.Muthusamy Advocate in SR. No.59943

VSG/RMI
JS/MR/SAR.3/27.06.2017/3P-6C

W.P.(MD).No.3805 of 2013
and
M.P.(MD).No.1 & 2 of 2013
and
W.M.P.(MD)No.3115 of 2017
12.06.2017