

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2018

CORAM

THE HONOURABLE Mr.JUSTICE S.M.SUBRAMANIAM

W.P. 41358 of 2006
and
M.P. 1 of 2006

M.Ramasamy

... Petitioner

Vs.

1. Revenue Divisional Officer (RDO),
Tirupur Revenue Division,
Tirupur,
Coimbatore District.
2. Tahsildar,
Avinashi Taluk,
Cheyyur Road,
Avinashi,
Coimbatore District.
3. Vaiyapuriappan,
S/o. Avinashi Gounder,
Thulukkan Kadu,
Samandan Kottai, Vanjipalayam (PO),
Pudupalayam Village,
Avinashi Taluk,
Coimbatore District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records of the 1st respondent, the Revenue Divisional Officer, Tirupur Revenue Division, Tirupur, Coimbatore District in respect of his proceedings made in Na.Ka.No.5063/06/A6 dated 13.06.2006 and quash the same.

For Petitioner : Mr.A.Sasidharan

For Respondents : Mr.G.B.Rajesh,
Government Pleader for R1-R2

Mr.L.Mouli for R3

O R D E R

The cancellation of sub-division effected by the Revenue Divisional Officer in Proceedings made in Na.Ka.No.5063/06/A6, dated 13.06.2006 is under challenge in the present Writ Petition.

2. The Writ Petitioner claims that he is an agriculturist and possessing lands in Pudupalayam Village of Avinashi Taluk. The Tahsildar, Avinashi Taluk had passed an order effecting sub-division of the property belongs to the Writ Petitioner. The said order was challenged by way of an appeal before the Revenue Divisional Officer, who in turn adjudicated the case on merits and cancelled the sub-division ordered by the Tahsildar, Avinashi Taluk. Challenging the said order, the present Writ Petition has been filed.

3. The learned counsel appearing on behalf of 3rd respondent brought to the notice of this Court that already a civil suit for partition between the parties in O.S.No.264 of 2006 is pending before the learned District Munsif at Avinashi. Both the Writ Petitioner as well as the 3rd respondent are parties to the civil suit pending before the learned District Munsif at Avinashi.

4. The learned Government Advocate appearing on behalf of the respondents 1 and 2 also stated that the civil suit pending between the parties are pending before the competent civil court of law. Therefore, no relief can be granted in the present Writ Petition.

5. This Court is of the opinion that the cancellation of patta or mutation in the revenue records can be done by the revenue officials only if there is no dispute in respect of ownership and possession. The revenue officials are incompetent to adjudicate the title or ownership in respect of the immovable property. Only in the event of clear title or ownership, patta can be granted by the revenue officials under the provisions of Patta Passbook Act, 1983. Admittedly, the civil suit between the parties are pending in O.S.No. 264 of 2006 and all the parties have to produce their documents and by adducing their evidences to establish their case before the competent Civil Court for the grant of proper relief. During the pendency of the civil suit, it is improper on the part of the revenue officials to entertain the application under the Patta Passbook Act and to grant relief to either of the parties, when the civil suit is pending between the parties. In such an event, the revenue officials have to wait for the disposal of civil litigations between the parties. In the present case on hand, the suit in O.S.No.264 of 2006 for partition is still pending before the learned District Munsif, Avinashi. In this regard, the Commissioner of Revenue Administration also issued circular to the officials stating that during the pendency of the Civil Suit, no application needs

to be entertained for grant of patta or for change of name in the revenue records.

6. This being the factum of this case, this Court is of the opinion that the respective parties are at liberty to file a fresh application before the competent authority only after the disposal of the civil dispute pending between the parties. Till such time, all the orders passed by the revenue officials are kept in abeyance. Accordingly, the Writ Petition stands disposed of. No costs. Consequently, the connected Writ Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. Revenue Divisional Officer (RDO),
Tirupur Revenue Division,
Tirupur,
Coimbatore District.

2. Tahsildar,
Avinashi Taluk,
Cheyyur Road,
Avinashi,
Coimbatore District.

+1cc to Mr.L.Mouli, Advocate, S.R.No.82751

+1cc to Mr.A.Saridharan, Advocate, S.R.No.82841

+1cc to the Government Pleader, S.R.No.83642

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SPD(CO)
GSP(19/12/2018)

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