IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.5488 of 2017

G.Theivanai .. Petitioner

Vs

1.The Revenue Divisional Officer,
Tambaram Taluk,
kanchipuram District.

2.The Tahsildar,
sholinganallur Takluk,
Kancheepuram District.

3. Munusamy ..Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Mandamus forbearing the 1st respondent from proceeding further with the enquiry in connection with the Notice No.Na.Ka.No.324 of 2016 A dated 06.06.2016 and Na.ka.No.324of 2016 A dated 08.02.2017 issued by the 1st respondent.

For Petitioner: Mr.Ravikumar Paul, Senior Counsel,
For M/s. Paul and Paul

For Respondents : Mr.R.S.Selvam
Government Advocate
For R1&R2
Mr.V.Bhiman
for Mr.Angusamyfor R3

ORDER

The relief sought for in this writ petition is to forbear the 1st respondent from proceeding further with the enquiry in connection with notice Na.Ka.No.324of 2016 dated 08.02.2017 issued by the 1st respondent.

2.The learned Counsel for the petitioner states that the patta was originally granted in favour of the writ petitioner and the third respondent had not preferred an appeal within the time specified and therefore, the third respondent lost his right of appeal under the statute. Secondly it is contended that the Civil litigations are pending before the competent Civil Court of law and the Original Suit filed by the 3rd respondent in O.S.No.244 of 2010 was dismissed, against which, the third respondent had preferred a first appeal in A.S. No.32 of 2014 and the same had been withdrawn with the liberty to file a fresh suit on the same cause of action. Accordingly the third respondent had proposed to file another suit, in respect of the very same cause of action.

3. The Learned Counsel for the petitioner states that, this being the fact, the first respondent ought not to have continued the enquiry proceedings in respect of the application submitted by the third respondent for cancellation of patta under the provisions of the Patta Pass Book Act 1987. It is contended that when the Civil litigations are pending before the competent Civil Court of Law the Revenue Officials cannot adjudicate the title, ownership and possession in respect of an immovable property.

4. The learned Counsel for the third respondent opposed the contentions of the Learned Counsel for the petitioner, by stating that there is no impediment for the first respondent to continue the enquiry proceedings, in view of the fact that the patta proceedings initiated are independent and not connected with the Civil suit pending.

5. The Learned Government Advocate for the respondents 1 and 2 also states that the present writ petition has been filed, challenging the enquiry call letter. Thus all the merits and demerits shall be submitted by the writ petitioner before the competent authorities.

6. This Court is of an opinion that it is preferable that, both the revenue proceedings and the Civil litigations are preferred simultaneously and such

simultaneous proceedings will affect the rights of the parties, while adjudicating Civil rights before the Civil Court of Law. Either of the parties will make an attempt to take undue advantage of these proceedings one way or other. This Court is of an opinion that grant of patta or cancellation of patta in favour of any of the parties will not confer any title in respect of the immovable property. Title and ownership must be established independently by the respective parties by submitting their documents and their adducing evidences.

7. Contrarily, if parties are allowed to take advantage of these pending revenue proceedings, the same will cause hindrance for the very adjudication of the Civil litigations before the competent Civil Court of law. This being the principles to be followed and also preferable, this Court is of an opinion that all the revenue proceedings including the patta proceedings, cancellation of patta or modification, alteration, shall be kept of abeyance now between the parties. After the conclusion of the Civil litigation, either of the parties are at liberty to file a fresh application before the revenue officials for grant of patta / cancellation of patta or alteration or modification in revenue records and if such applications are filed with reference to the Civil Court orders, the competent revenue official are empowered to adjudicate the same on merits and in accordance with law and by following procedures contemplated under the Patta Pass Book Act 1983.

8. With the above directions, the writ petition stands disposed of. No Costs. Consequently connected miscellaneous petition is closed.

Sd/--
Assistant Registrar(CS ix)

//True Copy//

Sub Assistant Registrar

pkn/kmm

To

1.The Revenue Divisional Officer,
Tambaram Taluk,
kanchipuram District.

2.The Tahsildar,
sholinganallur Takluk,
Kancheepuram District.

+1cc to Mr.R.Narayanan , Advocate SR.No. 60471
+1cc to M/s. Paul and Paul , Advocate SR.No. 60781
+1 CC TO GOVERNMENT PLEADER SR.NO.60901

W.P.No.5488 of 2017

ASK(24/09/2018)