IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11-07-2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.11516 of 2017
And
W.M.P.Nos.5106 and 5107 of 2018, and
37113, 12503 to 12505 of 2017

Mrs.M.Padmini .. Petitioner

Versus

1.The District Revenue Officer,
Kancheepuram,
Kancheepuram District.

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

3.The Tahsildar,
Pallavaram Taluk,
Kancheepuram District.

4.Rajkumar

5.R.Mallika .. Respondents

PRAYER:

Writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the first respondent relating to Na.Ka.No.12687/2012/N3 dated 23.4.2017 and quash the same and consequently, direct the third respondent to issue patgta to the petitioner in respect of propert5y situated in S.No.46/1B admeasuring 0.09.0 ares (9795 sq. ft.) Pammal village, Alandur Taluk, Kancheepuram District.

For Petitioner : Mr.K.Elangoo
For Respondents-1to3 : Mr.M.Elumalai,
Government Advocate.
For Respondent-4 : Mr.C.Prakasam
For Respondent-5 : Ms.Elizabeth Ravi

ORDER

The appellate order of the first respondent dated 23.4.2017 in respect of the properties situated in Survey No.46/1B, admeasuring 0.09.0 Ares (9795 sq. ft.), Pammal Village, Alandur Taluk, Kancheepuram District is under challenge in this writ petition.

2. The learned counsel, appearing on behalf of the writ petitioner, made a submission that the writ petitioner is an absolute owner of the land described in the writ petition. However, the respondents 4 and 5 have created certain fraudulent documents and making an attempt to grab the land. Thus, the order passed by the District Revenue Officer, Kancheepuram, without conducting proper enquiry is untenable.

3. At the outset, the writ petitioner claims that she is the absolute owner of the property described in the writ petition and she is having a valid title over the property and therefore, the order passed by the first respondent is contrary to the judgment and decree granted by the Civil Court in favour of the writ petitioner.

4. The respective learned counsel, appearing on behalf of the respondents 4 and 5, opposed the contentions of the learned counsel for the writ petitioner, by stating that the writ petitioner is not the owner of the property described in the writ petition. Contrarily, the said property had been purchased by the respondents 4 and 5 and their title has already been adjudicated before the Civil Court of Law and they are in possession of the judgment and decree in their favour. Therefore, the order impugned passed by the first respondent is based on the documents available and there is no infirmity as such.

5. The learned Government Advocate, appearing on behalf of the official respondents, referred the findings made by the first respondent in the impugned order. It is stated that both the writ petitioner as well as the respondents 4 and 5 are claiming title over the property in question. When there is a dispute prevailing between various parties in respect of title, ownership or possession, then the respective parties are bound to approach the competent Civil Court of Law to get a declaration. Therefore, the first respondent came to the conclusion that the orders passed by the Tahsildar cannot be sustained and the respective parties are at liberty to approach the competent Civil Court of Law for establishing their title, ownership or possession.

6. The Patta Pass Book is to be granted by the competent

Revenue Officials under the provisions of the Patta Pass Book Act, 1983. Under Section 3 of the Patta Pass Book Act, 1983, the patta pass book can be granted only to the owner of the property. Thus the Act made it very clear that the owner of a land alone is competent to get a patta pass book from the competent authorities.

7. This Court is of an opinion that there should not be any dispute in respect of ownership, title or possession of the immovable property, then alone the Revenue Officials can grant the patta pass book. The Revenue Officials have no jurisdiction to adjudicate the title, ownership or possession of the immovable properties. In the event of establishing a clear title by a person, who submitted an application seeking patta, then alone the authority competent can issue patta under the provisions of the Patta Pass Book Act, 1983.

8. In the event of any counter claim by any other person in respect of title, ownership or possession, then the Revenue Officials have no jurisdiction to adjudicate the title or ownership of the property concerned. Contrarily, the authorities shall direct the parties concerned to approach the competent Civil Court for the purpose of declaration of title of the immovable property.

9. Such being the legal principles to be followed, this Court is of an opinion that the findings made by the first respondent that there is a dispute in respect of title between the writ petitioner and the respondents 4 and 5 and therefore, it is preferable to approach the competent Civil Court for the purpose of declaring the title and ownership. Such being the findings, this Court is of an opinion that there is no infirmity as such in respect of the impugned order and therefore, the Revenue Officials are to be restrained from implementing or entertaining any application for grant of patta, cancellation of patta or alterations in the revenue records till the parties adjudicate the matter before the competent Civil Court of Law in respect of title, ownership and possession of the properties. Thus, all the revenue orders passed in this regard in respect of the property described in the writ petition are kept in abeyance and the respective parties are at liberty to approach the Civil Court in respect of the property described in the present writ petition.

10. In this view of the matter, it is left open to the respective parties to approach the competent Civil Court of Law for the redressal of their grievances in respect of the immovable properties in question. Till the conclusion of the civil litigations between the parties, the Revenue Authorities are restrained from entertaining any application for grant of

patta, cancellation of patta or alterations in the revenue records. Only after the completion of the civil proceedings, it is left open to the respective parties to file a fresh application for grant of patta or otherwise in accordance with the provisions of the Patta Pass Book Act.

11. Accordingly, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

Svn

To

1.The District Revenue Officer,
Kancheepuram,
Kancheepuram District.

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

3.The Tahsildar,
Pallavaram Taluk,
Kancheepuram District.

+1cc to Ms.Elizabeth Ravi, Advocate, S.R.No.45477
+2cc to Mr.C.Prakasam, Advocate, S.R.No.45967, 45579
+1cc to Mr.K.Elangoo, Advocate, S.R.No.45278

WP 11516 of 2017

CS/13/07/18