IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.09.2018

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.31684 and 15215 of 2017
and
W.M.P.Nos.16502 to 16504 and 25014 of 2018

1.K.Shahul Hameed

2. K.Rafi Ahamed ... Petitioners
(in all writ petitions)

vs.

1. The Revenue Divisional Officer,
Ambattur Division,
Chennai.

2. The Tahsildar,
Ambattur Taluk,
Ambattur, Chennai.

3. The Inspector of Police,
Nolambur Police Station,
Chennai.

4. Mr.J.Ramachandra Rao ... Respondents
(in all writ petitions)

Prayer in W.P.No.31684 of 2017: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a writ of Certiorari calling for the records of the proceedings of the 1st respondent in Na.Ka.No.1448/2017/A1, dated 25.10.2017 and quash the same.

Prayer in W.P.No.15215 of 2017: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a writ of Certiorari calling for the records of the proceedings of the 1st respondent in Na.Ka.No.870/2017/A2, dated 08.05.2017 and consequential proceedings of 2nd respondent in Na.Ka.No.1920/2017/C1, dated 01.06.2017 and to quash the same and forbear the respondents 1 to 3 from in any way interfering with the peaceful possession and enjoyment of the property in question by the petitioners including measuring the same.

For Petitioners: Mr. Richardson Wilson
for M/s.Wilson Associates

For Respondents: M/s. Shri Jayanthi for R1 to R3
Government Pleader.
Mr.H.Mohammed Farook for R4

COMMON OR D E R

The relief sought for in this writ petition is to call for the records in relevant to the order of the 1st respondent dated 25.10.2017 and quash the same.

2. The order impugned states that, the claim of the writ petitioner for grant of patta cannot be granted in veiw of the fact that, on the ground that there is no entries in the revenue records in respect of the patta already granted in respect of the property described in the present writ petition.

3. In the absence of any such entry in revenue records question of canceling the patta does not arise at all. Writ petitioner states that he is holding the patta. In the Revenue Divisional Office on verification, it is found that there is no entry in revenue record in respect of the patta granted. It is for the writ petitioner to adjudicate the merits before the appellate authority for the purpose of establishing that he is holding a valid patta granted by the competent authorities under the provisions of the Tamil Nadu Patta Pass Book Act, 1983.

4. It is brought to the notice of this court that the civil litigations are pending between the parties before the Competent Civil Court of Law and against the interim order an appeal was also filed before the Sub Court. The civil suit filed by the writ petitioner in O.S.No.484 of 2016 before the District Munsif Court, Ambattur is also pending. This apart, some other civil litigations are also pending between the parties.

5. This court is of an opinion that, when the civil litigations are pending between the parties in respect of the title, ownership or possession, the Revenue officials are

incompetent to adjudicate the patta proceedings under the provisions of the Tamil Nadu Patta Pass Book Act, 1983. This apart, the impugned order states that, there is no entry in respect of the patta already granted in favour of the writ petitioner. Thus, all these merits and demerits are to be adjudicated by producing original document and by adducing evidences before the competent Civil Court of Law.

6. As far as the Revenue officials are concerned, Section 3 of the Tamil Nadu Patta Pass Book Act, 1983 stipulates that, a patta pass book can be issued to the owner of the immovable property. Thus, in the event of establishing the ownership, patta can be granted by the competent officials. However, the Revenue officials are in competent to adjudicate the title, ownership or possession in respect of immovable properties.

7. The Learned Special Government Pleader states that, the Government also issued circular in proceeding dated 12.03.2018 stating that, in the event of the pendency of civil litigations before the competent civil courts, the Revenue officials cannot adjudicate the title, ownership or possession or issue patta in favour of any person till the conclusion of the civil proceedings.

8. Thus it is made clear that, the respective parties shall adjudicate the civil litigations and only after the conclusion of the civil disputes, a fresh application shall be made for the purpose of grant of patta, cancellation of patta or for effecting alterations or modifications in the revenue records.

9. This being the principles to be followed, this court is of an opinion that, all the revenue proceedings are to be kept in abeyance till the conclusion of the civil proceedings. Accordingly, the impugned order as well as the connected revenue proceedings in respect of the claim of the properties shall be kept in abeyance and after the conclusion of the civil litigations the respective parties are at liberty to submit fresh application for grant of patta, cancellation of patta or alteration in revenue records as per the procedures contemplated under the provisions of the Tamil Nadu Patta Pass Book Act, 1983.

10. With these directions the writ petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Revenue Divisional Officer,
   Ambattur Division,
   Chennai.

2. The Tahsildar,
   Ambattur Taluk,
   Ambattur, Chennai.

3. The Inspector of Police,
   Nolambur Police Station,
   Chennai.

+1cc to the Government Pleader Sr.64604
+2cc to M/S.H.Mohammed Farook, Advocate Sr.64528

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and
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kan[co]
srg 10/10/2018