

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :03.07.2018

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.32910 of 2015
and
M.P.Nos.1 to 3 of 2015
&
W.M.P.No.3050 of 2016

Eswan Ali

..Petitioner

vs

1. The District collector,
Collector Office,
Cuddalore District.
2. The District Revenue Officer,
DRO Office, Chidambaram Division,
Cuddalore District.
3. The Tahsildar,
Chidambaram Taluk,
Cuddalore District.
4. The Assistant Director,
Land Measurement Department,
Collector Office, Cuddalore District.
5. The Head Surveyor,
Chidambaram Taluk Office,
Cuddalore District.
6. Deputy Superintend of Police,
Chidambaram Taluk,
Cuddalore District.
7. Inspector of Police, (L&O)
Chidambaram Town Police station,
Chidambaram, Cuddalore District.

8. K.Pakkirisamy

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the entire records in connection with Na.Ka.Aa.4/838/2015 passed by the 2nd respondent dated 23.06.2015 and to quash the same.

For Petitioner : Mr.A.Raja Mohamed

For Respondents : M/s.A.Srijayanthi
Special Government Pleader for R1 to R7
Mr.N.Manokaran for R8

O R D E R

The order of the second respondent issued in proceeding dated 23.06.2015 in respect of alteration of Survey number in Revenue records is under challenge in this writ petition.

2.The learned counsel appearing on behalf of the petitioner contends that the writ petitioner's brother is the absolute owner of the property in Survey No.27/6C2 an extent of 2088sq.ft. known as town Survey No.27/6C3 an extent of 1006 sq.ft totally measurement 3094sq.ft. and further known as Plot No.3 and 4 respectively.

3.The petitioner claim that he purchased the property through a Registered Sale deed dated 23.02.2015. The petitioner narrates the details of the documents registered before the Sub Registrar Office and further claims that he had purchased the said property from the lawful owners.

4.However, the 8th respondent set out a counter claim against the writ petitioner in respect of the title of the very same property. The 8th respondent submitted an application before the District Revenue Officer for alteration of the Survey number and the grievances of the writ petitioner is that the said application was ordered by the second respondent without even hearing the petitioner and without providing any opportunity.

5.The learned counsel appearing for the petitioner states that the order impugned is liable to be scrapped on this ground alone.

6.This Court is of an opinion that grant of patta, cancellation of patta or alteration of Revenue records including change of survey number in revenue records are to be done by the revenue officials only if there is no dispute in respect of the title or ownership of the immovable property. In the event of

any dispute in relation to the title, ownership or possession, then the same cannot be adjudicated by the revenue officials and it is the duty of the revenue officials to direct the respective parties to approach the competent Civil Court of Law for the purpose of adjudicating the title, ownership or possession. In respect of the immovable properties, the revenue officials are incompetent to adjudicate the title or ownership of immovable properties.

7. The Patta Pass Book Act, more specifically Section 3 enumerates that the Patta Pass Book can be granted only to the owner of the property. Thus, it is unambiguous that the ownership is to be established by the person, who approaches the revenue officials for grant of patta. If there is any dispute or counter claim, then the revenue officials cannot adjudicate the title or otherwise in respect of such immovable properties. The applications made in this regard are to be entertained only after the conclusion of the civil proceedings initiated or pending before the competent Civil Court. The revenue officials cannot go into the details regarding the title of the immovable property, they have to verify the ownership and if there is no counter claim of civil suit is pending, then alone they can issue Patta Pass Book or cancellation of patta or change in the survey numbers.

8. At the outset, the scope of interference in respect of the title and ownership by the revenue officials are limited and they cannot adjudicate the same. The grievances of the writ petitioner in this writ petition is that even without hearing the petitioner, the survey number has been changed based on the applications submitted by the 8th respondent. However, it is brought to the notice of this Court that the 8th respondent is also claiming title over the property. Thus, it is also preferable that either of the parties can approach the competent Civil Court for the purpose of establishing their respective title, regarding the property in question.

9. Accordingly, all the revenue proceedings including grant of patta, cancellation of patta or change of survey numbers in revenue records are kept in abeyance till the conclusion of the civil litigations, if any initiated or if the disputes regarding the title between the writ petitioner and the 8th respondent is resolved in all respects. After resolving the dispute regarding the title, the respective parties are at liberty to file a fresh application for grant of patta, cancellation of patta or change of survey numbers in the revenue records and in the event of filing any such fresh application, the competent authorities are at liberty to consider the same on merits and in accordance with law.

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

Sd/-
Deputy Registrar

//True copy//

Sub Assistant Registrar

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To

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7. Inspector of Police, (L&O)
Chidambaram Town Police station,
Chidambaram, Cuddalore District.

+1cc to Mr.N.Manoharan, Advocate SR.No.42909
+1cc to Government Pleader SR.No.43154
+1cc to Mr.A.Raja Mohamed, Advocate SR.No.42854

W.P.No.32910 of 2015

GN(13/07/2018)