IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :25.06.2018

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

W.P.No.33766 of 2015

and

M.P.No.1 & 2 of 2015

and

W.M.P.No.29178 of 2016

1.R.Shanmugarayar
2.S.Shanthi
3.S.Sathish
4.S.Karthik ..Petitioners

vs

1.The District Collector,
Chennai District,
Singaravelan Maligai
Chennai - 600 001.

2.The Revenue Divisional Officer,
Ambattur,
Chennai.

3.Alamelu .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent, which culminated in his proceedings Na.Ka.No.941/2013/A2 dated 30.05.2014, quash the same and forbear the Respondents from in any manner proceeding further with issue of Patta to the 3rd respondent pending disposal of the writ petition.

For Petitioners : Mr.Sriram
for M/s.A.S.Kailasam and Associates

For Respondents : Ms.A.Sri Jayanthi, Spl GP for R1 & R2
M/s.Selvi George for R2

O R D E R

The order passed by the 2nd respondent in proceedings dated 30.05.2014 in respect of the issuance of patta in favour of the 3rd respondent is under challenge in this writ petition.

2.The learned counsel appearing both for the writ petitioners as well as the respondents admit the fact that the third respondent filed a suit for Declaration in O.S.No.129 of 2016 before the Civil Court. The suit is pending and under these circumstances, the orders passed by the Revenue officials in respect of grant of patta cannot be validated.

3.The patta proceedings are initiated under the provisions of the Patta Pass Book Act 1983[hereinafter referred to as "the Act"]. Section 3 of "the Act" states that Patta Pass Book can be issued to the owner of the property. Thus, it is clear that only an ''owner'' is entitled to submit an application for grant of Patta Pass Book under the provisions of "the Act". In the event of any dispute in respect of title, ownership or possession, the Revenue officials are not competent to issue any patta. In other words, the Revenue officials namely, The Tahsildar or Revenue Divisional Officer are incompetent to adjudicate the title, ownership or possession in respect of the immovable properties. Only in the event of establishing that a person is the owner of the property, then alone the Patta Pass Book can be issued under the provisions of "the Act". The respondent cannot claim title or ownership based on the patta granted by the Revenue officials. The respective parties have to establish their right of property only based on the documents and by adducing evidences before the competent Civil Court. Thus, the mere issuance of patta will not confer any title in respect of the immovable property.

4.This being the principles to be followed, this Court is of an opinion that none of the parties can take advantage of the adjudication done before the Revenue officials under the Patta Pass Book proceedings during the pendency of the Civil Suit filed by the third respondent for Declaration of title. Under these circumstances, it is preferable that all the proceedings initiated and concluded under the provisions of the Patta Pass Book Act, are kept in abeyance till the final conclusion in the civil litigations between the parties. After the finality is reached in these civil litigations, then either of the party can file a fresh application for issuance of patta based on the established title or ownership.

5.This being the factum of the case, this Court is of an opinion that the proceedings under "the Act" deserves to be suspended. Accordingly, the impugned order passed by the second respondent in proceedings in Na.Ka.No.941/2013/A2 dated 30.05.2014 is kept in abeyance till the final disposal of the civil litigations between the parties and the said order need not be implemented nor be relied upon by either of the parties. On conclusion of the civil litigations at all levels, it is left open to the respective parties to approach the competent authorities under "the Act" for grant of patta.

6.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-VII)

//True Copy//

Sub Assistant Registrar

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To

1.The District Collector,
Chennai District,
Singaravelan Maligai
Chennai - 600 001.

2.The Revenue Divisional Officer,
Ambattur,
Chennai

+1cc to Mrs.SELVI GEORGE, Advocate, S.R.No.40095
+1cc to Mr.A.S.KAILASAM & ASSO. Advocate, S.R.No. 40250

W.P.No.33766 of 2015

SJ(CO)
TR(06/07/2018)