

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :26.06.2018

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

W.P.No.34059 of 2015

and

M.P.No.1 of 2015

and

W.M.P.No.12482 of 2016

D.K.N.Kandasubramanian ..Petitioner

vs

1.The District Collector,
Namakkal District,
Namakkal.

2.The Tahsildhar
Rasipuram Taluk
Rasipuram.

3.K.Jayaraman ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the impugned order made in No.Na.Ka.20557/2015-L1-dated 15.10.2015 on the file of the 1st respondent herein and quash the same.

For Petitioner : M/s.T.Dhanyakumar

For Respondents: Mrs.A.Srijayanthi, Spl GP for R1 & R2
Mr..V.R.Anna Gandhi for R3

O R D E R

The relief sought for in this writ petition is to quash the impugned order passed by the first respondent in proceedings dated 15.10.2015 in respect of the cancellation of patta granted by the Tahsildar.

2.The learned counsel appearing on behalf of the writ petitioner states that the petitioner is the absolute owner of the property situated in Natham Survey No.222-5-87 measuring an extent of 0.0064.0 square meters in Devasthanampudhur, Seerapalli village, Rasipuram Taluk, Namakkal District and he purchased the said property from one M/s.Lalitha, W/o. Thangamani through sale deed dated 04.12.1998 in document No.1420 of 1998, registered before the Sub Registrar Office, Namagiripettai. The patta had originally been issued in favour of the vendor of the writ petitioner namely, M/s.Lalitha on 22.06.1990 by the Tahsildhar, Rasipuram. The Assistant Settlement Officer, Dharapuram in his proceedings dated 14.09.1998 sub divided the Old Survey Number and assigned New Survey No.222/5/87 for 0.0064 square meters and granted patta in favour of the vendor, M/s.Lalitha. Subsequently, the writ petitioner purchased the property through sale deed dated 04.12.1998 and registered as document No.1420 of 1998. Accordingly, the patta granted in favour of the vendor, M/s.Lalitha has been transferred in favour of the writ petitioner. Thereafter, the petitioner had obtained building plan permission for construction in proceedings dated 13.01.1997 from the Executive Officer, Seerapalli Panchayat, Rasipuram Taluk.

3.The learned counsel appearing on behalf of the writ petitioner states that the petitioner is in possession and enjoyment of the said property and already constructed pucca building by spending about Rs.15,00,000/-(Rupees Fifteen Lakhs only). Now, the property is leased out and one Mr.Selvam is residing in the building as a tenant. The third respondent submitted an application before the first respondent for cancellation of patta granted in favour of the vendor and subsequently to the writ petitioner. The first respondent has not considered the title established by the writ petitioner and canceled the patta issued in favour of the writ petitioner. Thus, the writ petitioner is constrained to move the present writ petition.

4.The learned counsel appearing on behalf of the third respondent opposed the contentions by stating that the writ petitioner is not the owner of the property.

5.The learned Special Government Pleader submitted that the land in question is an enam land. The Assistant Settlement Officer has no authority to issue any patta in favour of any person. Thus, the patta granted in favour of the writ petitioner was illegal and not in accordance with law. Thus, the cancellation of patta issued by the first respondent is in accordance with the provisions of the statute.

6.This Court is of an opinion that Section 3 of the Patta Pass Book Act[hereinafter referred to as "the Act"] enumerates that Patta Pass Book can be issued to an "owner". Thus, only the owner is entitled to submit an application for grant of Patta Pass Book by the competent authorities namely, the Tahsildar. In the event of any dispute in relation to title, ownership or possession, the competent authorities under "the Act" are not empowered to adjudicate the same. The title, ownership or possession are to be adjudicated only by the competent Civil Court of Law and these revenue officials are incompetent to made a finding in respect of the title or possession of the immovable property.

7.It is an admitted fact that there is a dispute crept in after grant of patta and the third respondent filed an application for cancellation of patta granted in favour of the writ petitioner and the same was allowed by the first respondent. Thus, there is an admitted dispute in respect of the property in question and therefore, it is left open to the respective parties to approach the competent Civil Court for the purpose of adjudicating the title, ownership or possession.

8.It is needless to state that patta will not confer any title. It is for the respective parties to establish their title and ownership by producing documents and by adducing evidences before the competent Civil Court.

9.In this view of the matter, the respective parties including the petitioner are at liberty to approach the competent Civil Court for the purpose of adjudicating title, ownership and possession. Only after the conclusion of the civil litigations, the respective parties are at liberty to submit a fresh application for grant of patta under the provisions of the Patta Pass Book Act, 1983. Till such time, the orders passed by the competent authorities under the provisions of the Patta Pass Book Act need not be implemented and all such proceedings are kept in abeyance.

10.With these observations, 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-II)

//True Copy//

Sub Assistant Registrar

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To

1.The District Collector,
Namakkal District,
Namakkal.

2.The Tahsildhar
Rasipuram Taluk
Rasipuram.

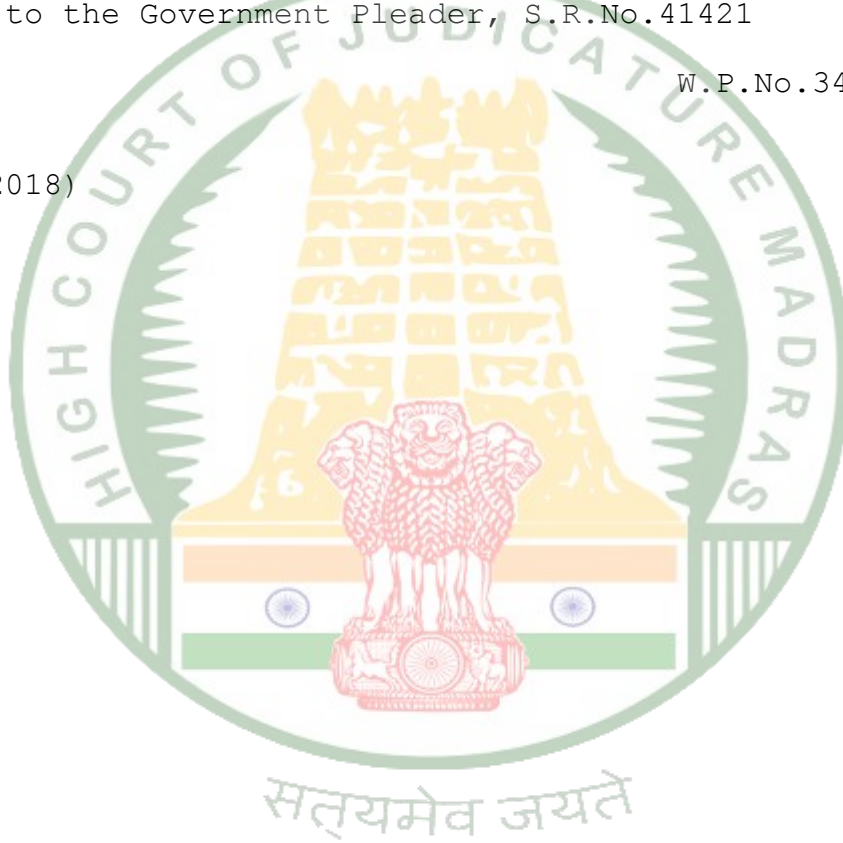
+1cc to Mr.T.DHANYAKUMAR, Advocate, S.R.No.40538

+1cc to Mr.V.R.ANNA GANDHI, Advocate, S.R.No. 40186

+1cc to the Government Pleader, S.R.No.41421

W.P.No.34059 of 2015

KJI (CO)
TR(05/07/2018)



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