IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28-09-2018

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.767 of 2016
And
W.M.P.No.575 of 2016

K.Balaiya ... Petitioner

..Vs..

1.The District Revenue Officer,
District Collectorate,
Public Office Road,
Nagapattinam-611 003.

2.The Revenue Divisional Officer,
Revenue Divisional Office,
Cutchery Road,
Mayiladuthurai.

3.The Tahsildar,
Tarangambadi,
Tarangambadi Taluk,
Nagapattinam District.

4.Mrs.Vijaya

5.C.Arun Kumar

6.C.Ashok Kumar

7.C.Arulmozhi ... Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the proceedings of the first respondent made in Na.Ka.2092/2015/Aa4 dated 19.10.2015 and quash the same.

For Petitioner : Mr.M.R.Kuyilan

For Respondents-1to3 : Mr.A.Ansar, Government Advocate.

For Respondents-4 to 7 : Ms.R.Usha Priya

O R D E R

The order of the first respondent dated 19.10.2015 in respect of the cancellation of patta granted in favour of the writ petitioner, is under challenge in this writ petition.

2. The learned counsel for the writ petitioner states that the writ petitioner is the absolute owner of the property in respect of the land comprised in S.No.235/3A of an extent of 0.21.0 Ares situate at Kidarankondan Village, Tharangampadi Taluk, Nagapattinam District.

3. The writ petitioner purchased the said land from one Mr.Mani, who is none other than the uncle of the writ petitioner, during the year 1986. The Tahsildar granted patta in favour of the writ petitioner initially.

4. The respondents 4 to 7 preferred a revision petition before the District Revenue Officer, Nagapattinam, who in turn conducted an enquiry and cancelled the patta granted in favour of the writ petitioner. Challenging the same, the present writ petition has been filed by the writ petitioner.

5. The learned counsel, appearing on behalf of respondents 4 to 7, opposed the said contention of the learned counsel for the writ petitioner, by stating that the writ petitioner is not the owner of the property in question. The respondents 4 to 7 are also having interest in respect of the land described in the present writ petition.

6. This apart, the District Revenue Officer, Nagapattinam considered the documents submitted by the respective parties and passed an order in favour of the respondents 4 to 7 and therefore, the claim of the writ petitioner is liable to be rejected.

7. The learned Government Advocate, appearing on behalf of the respondents 1 to 3, also contends that the Revenue Divisional Officer, Nagapattinam, considered the documents filed before him and passed an order and there is no infirmity. Paragraph 12 of the counter states that the order was passed based on the documents submitted by the respective parties and by verifying the revenue records by the authorities concerned.

8. It is brought to the notice of this Court that already a civil suit is instituted by the parties in O.S.No.232 of 2011 and now pending before the Principal District Munsif, Mayiladuthurai.

9. The learned counsel, appearing on behalf of the respondents 4 to 7, states that the relief sought for in the

suit is only for an injunction and therefore, the order of the Revenue Divisional Officer is to be sustained.

10. May that it be.

11. This Court is of an opinion that when the civil rights between the parties are under adjudication, in a suit before the competent Civil Court of Law, the Revenue Authorities cannot take a decision in respect of the grant of patta, cancellation of patta or alteration or modification in the revenue records, the Revenue Officials are incompetent and have no jurisdiction to adjudicate the title, ownership or possession in respect of the immovable properties.

12. Section 3 of the Patta Pass Book Act, 1983, states that the owner of the property is entitled to get Patta Pass Book under the provisions of the Act. Thus, in the event of any dispute in respect of title or ownership, the respective parties have to approach the competent Court of Law. Even in respect of possession under injunction, then also, the Revenue Officials cannot adjudicate the documents involved in respect of the properties.

13. In this view of the matter, this Court is of an opinion that the parties are at liberty to approach the Revenue Officials only after the conclusion of the civil litigations. Accordingly, all the revenue proceedings, including the impugned order passed by the first respondent in proceedings dated 19.10.2015, are kept in abeyance. The respective parties are at liberty to approach the Revenue Officials only after the conclusion of the civil litigations and by filing fresh applications in accordance with the procedures contemplated under law.

14. Accordingly, the writ petition stands disposed of.

However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

Svn

To

1.The District Revenue Officer,
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Nagapattinam-611 003.

2.The Revenue Divisional Officer,
Revenue Divisional Office,
Cutchery Road,
Mayiladuthurai.

3.The Tahsildar,
Tarangambadi,
Tarangambadi Taluk,
Nagapattinam District.

+1 cc to M/s.M.R.Kuyilan Advocate sr 68248
+1 cc to M/s.P.Vasanthakumar Advocate sr 67488
+1 cc to the Government Pleader sr 67836

WP No.767 of 2016

aa15/10/2018