

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.07.2018

CORAM

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

W.P.No.25248 of 2013

and

M.P.No.1 of 2013

K.Chinnathambi

.. Petitioner

Vs.

1.The Collector,
Dharmapuri District.

2.The District Revenue Officer,
Dharmapuri District.

3.The Revenue Divisional Officer,
Harur.

4.The Tashildar,
Pappireddi Taluk,
Dharmapuri District.

5.Kumudavalli

6.K.Kumaravel

.. Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India to issue of Writ of Mandamus, to direct the 3rd respondent to consider the petitioner's representation dated 24.06.2013 consequently cancel the patta stands in favour of 5th and 6th respondents for the property bearing Survey No.26/5, Palapatti Village, Dharmapuri District.

For Petitioner : Mr.N.Subramani

For R1 to R4 : Mr.M.Elumalai, GA

For R5 & R6 : Mr.K.Rajasekaran

WEB COPY
O R D E R

The relief sought for in this writ petition is for a direction to direct the 3rd respondent to consider the petitioner's representation dated 24.06.2013 and consequently cancel the patta stands in favour of 5th and 6th respondents for the property bearing Survey No.26/5, Palapatti Village, Dharmapuri District.

2.The affidavit filed in support of the writ petition states that the petitioner is in possession and cultivating the land measuring about 1.87 acres in Survey No.26/5 of A.Pallipatti Village, Pappireddipatti Taluk, Dharmapuri District.

3.The petitioner claims that he is the owner of the said property. The petitioner obtained a patta in proceedings dated 12.02.1985 in vide Patta No.325. The petitioner's son also obtained a separate patta in Patta No. 760 and they are continuing in possession and enjoyment for the past many years. Under these circumstances, one Mr.Kanagounder executed a will in favour of one Mr.Kolandaigounder without any legal rights. Challenging the same, the petitioner filed a Civil Suit in O.S.No.5/1998. The suit was dismissed on 07.10.1993. Challenging the judgment and decree, the petitioner preferred a First Appeal in A.S.No.7/94 and the decree passed by the Trial Court was confirmed in the First Appeal also. Thus, the petitioner preferred Second Appeal in S.A.No.856/2008 and the Second Appeal is now pending before this Court. During the pendency of the Civil Litigations, the petitioner submitted a representation to the respondent dated 24.06.2013, to cancel the patta granted in favour of the respondents 5 & 6.

4.The learned Government Advocate appearing on behalf of the respondents 1 to 4 contended that the civil cases are pending between the parties, now, the Second Appeal is pending before this Court. Apart from the Second Appeal, another appeal in A.s.No.336 of 2003 is also pending. Thus, there is a dispute prevail between the parties in respect of the title and ownership of the property in question. When the Civil dispute is pending regarding the title, ownership and possession in respect of the immovable property, then the revenue officials are incompetent to adjudicate the same for issuance of Patta or cancellation of Patta. Patta proceedings can be initiated only in the event of establishing that the person, who has submitted an application seeking Patta, is the "owner" of the property. In other words, the owner of an immovable property alone is entitled to get Patta under the provisions of the Patta Pass Book Act, 1983. In the event of any dispute in relation to the title, ownership or possession, the respective parties have to approach the competent Civil Court of Law for adjudication of the same and only after the conclusion of the civil litigations, the revenue officials are competent to entertain an application for issuance of Patta or cancellation of Patta. During the pendency of the civil litigations, the revenue officials are incompetent to adjudicate the title or ownership in respect of an immovable property. 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 above said Act. In the event of any dispute in respect of title, ownership or possession, the Revenue officials are not competent to issue any patta.

5. In the present case, admittedly, a Civil Suit was filed and now, the matter is pending before this Court in Second Appeal No.856/2008. This apart, another Appeal in A.S.No.336/2003 is also pending for adjudication. Under these circumstances, all revenue proceedings instituted are pending under the provisions of the Patta Pass Book Act are kept in abeyance. After conclusion of the civil litigations between the parties, the respective parties are at liberty to file a fresh application for grant of patta or cancellation of patta.

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

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

1. The Collector,
Dharmapuri District.
2. The District Revenue Officer,
Dharmapuri District.
3. The Revenue Divisional Officer,
Harur.
4. The Tashildar,
Pappireddi Taluk,
Dharmapuri District.

+1cc to Mr.K.Rajasekaran, Advocate, S.R.No.43693
+1cc to Mr.N.Subramani, Advocate, S.R.No.43928
+1cc to the Government Pleader, S.R.No.44094

W.P.No.25248 of 2013

GSP(13/07/2018)