

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.04.2018

C O R A M

THE HONOURABLE Mr.JUSTICE S.M.SUBRAMANIAM

WP.No.33938 of 2016

Savitheri

...Petitioner

Vs.

1. The District Collector,
Collectorate,
Salem District.

2.The District Revenue Officer,
Collectorate,
Salem District.

3.The Revenue Divisional Officer,
Attur Taluk, Salem District.

4.The Tahsildar,
Attur Taluk & Post,
Salem District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 4th respondent herein to consider the petitioner's representation dated 22.01.2016 and to name transfer the patta in favour petitioner bearing S.No.567/5, 566/3, 566/11 to the extent of 5 acres situated in Ramanakayanpalayam Village, Attur Taluk, Salem District belongs to the petitioner.

For Petitioner : Mr.A.Rajakumar

For R1 to R4 : Mr.J.Ramesh,
Additional Government Pleader

O R D E R

The relief sought for in this writ petition is to direct the fourth respondent herein to consider the petitioner's representation dated 22.01.2016 and to name transfer of patta in favour of the writ petitioner bearing S.No.567/5, 566/3, 566/11 to the extent of 5 acres situated in Ramanakayanpalayam Village,

Attur Taluk, Salem District belongs to the petitioner.

2.The petitioner claims that she is an absolute owner of the property in question. She acquired the said property by way of a registered settlement deed dated 19.10.1995. The petitioner claims that she is in possession and enjoyment of the said properties. In all revenue records, the name of the petitioner is registered and patta bearing S.Nos.567/5, 566/3, and 566/11 to the extent of 5 acres also stands in the name of the writ petitioner. Under such circumstances, there is an intervention by some third parties, and in this regard, civil suit in O.S.No.82 of 2014 is pending before the Subordinate Court, Attur.

3.The learned counsel appearing on behalf of the writ petitioner states that the suit is for permanent injunction. However, the copy of the plaint and details regarding the suit are not furnished in this writ petition. In the absence of a copy of the plaint, this Court is unable to verify the nature of the suit filed. However, it is represented that the suit is for permanent injunction.

4.When the Civil Suit is pending before the competent Civil Court, question of granting of patta does not arise at all. It is for the respective parties to establish their title or otherwise before the Competent Civil Court, and only after reaching finality in the Civil litigation, the Revenue Authorities shall consider issuance of patta in accordance with the Act. By way of adjudicating the title before the Tahsildar and even before the Appellate Authority the parties cannot claim title over the property. In respect of title, the competent Civil Court alone is empowered to grant declaration or injunction. However, in the present writ petition, the learned counsel for the writ petitioner admits that, the Civil Suit is pending before the Subordinate Court, Attur in O.S.No.82 of 2014. Therefore, considering the representation submitted before the Tahsildar would not arise at all by filing a writ petition.

5.The writ petitioner cannot seek a direction to consider her representation in respect of grant of patta in her name or to include his name in the patta. Such an adjudication is impermissible. In view of the fact that the Civil suit is pending. Even if the same is adjudicated by the Competent Authority viz; the Tahsildar. There is an appeal provision under the Patta Passbook Act. Therefore, even in such case, the aggrieved person has to approach the Appellate Authority under the provisions of the Patta Passbook Act. By filing a writ petition seeking a direction to consider the representation. The writ petitioner cannot develop a cause of action or create a

right, and therefore, the present writ petition is absolutely misconceived, and the direction as such sought for to consider the writ petition cannot be granted more specifically during the pendency of the Civil Suit in O.S.No.82 of 2014. This apart, the title or otherwise all to be adjudicated and to be established before the competent Civil Court. Thus, the writ petitioner has not established any cause of action for grant of any relief as such sought for in this writ petition.

6. Accordingly, the writ petition is devoid on merits and stands dismissed. There shall be no order as to costs.

Sd/-
Assistant Registrar (CS VIII)

//True copy//

Sub Assistant Registrar

KP / lok

To

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3. The Revenue Divisional Officer,
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4. The Tahsildar,
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Salem District.

+1cc to Government Pleader SR.No.28464

RSI (CO)
GN(23/05/2018)

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