

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :14.08.2018

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

WP.No.48 of 2016

and

W.M.P.Nos.12, 13 and 10972 of 2016

L.S.Nandhakumar

... Petitioner

vs

1.The District Collector,
Villupuram District,

2. The Revenue Divisional Officer,
O/o. the Revenue Divisional Officer,
Kallakurichi,
Villupuram District.

3. The Tahsildar,
Sankarapuram Taluk,
Villupuram District.

4. M.Arasan

5. G.Edison

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India petitioner prayed that this Court to issue a writ of Certiorari to call for entire records connected with the proceedings of the 2nd respondent in Na.Ka.No.A4/6665/2015 dated 03.12.2015 and quash the same.

For Petitioner :Mr. G. Balamaniandan

For Respondents :Mr.R.S.Selvam,
Government Advocate for R1 to R3
Mr.S.Ananda Kumar for R5
No Appearance for R4

O R D E R

The enquiry notice issued by the 2nd respondent in proceedings dated 03.12.2015, calling the writ petitioner to appear for enquiry, is under challenge in this writ petition.

2. The learned counsel appearing for the petitioner states that in respect of the cancellation of Patta granted in favour of the petitioner, the enquiry notice was issued by the 2nd respondent, Revenue Divisional Officer, Kallakuruchi, Villupuram District. Challenging the said enquiry notice, the present writ petition has been filed.

3. The learned counsel appearing for the respondents 4 and 5 states that the writ petitioner by virtue of Patta granted in his favour is attempting to disrupt the electricity connection and other amenities.

4. This Court is of an opinion that no writ petition can be entertained against an enquiry notice issued by the competent authority to participate in the process of enquiry. The writ petitioner instead of submitting his explanation and participate in the enquiry proceedings, has chosen to file the present writ petition challenging the very same notice. Thus, the writ petition deserves to be rejected on the ground that no writ can be entertained against the show cause notice in a routine manner. The writ petition against the show cause notice can be entertained, if the same is issued by an incompetent authority having no jurisdiction or if any allegation of malafide are raised or the same is in violation of the statutory rules in force. Even in case of raising an allegation of malafide, the authority against whom such an allegation raised is to be impleaded as a party respondent in his personal capacity in the writ proceedings. In the absence of any one of these legal grounds, no writ can be entertained against the show cause notice.

5. However, it is brought to the notice of this Court that the respondents 4 and 5 have also filed a Civil Suit in O.S.No.148 of 2010 before the Civil Court, Kallakurichi and the Civil Suit is pending as of now. When the title, ownership or possession in respect of the immovable property is in dispute, the revenue officials cannot adjudicate the same and grant Patta or cancellation of Patta already granted, during the pendency of the Civil litigation. The Revenue Authorities cannot adjudicate

the civil rights of the parties in the Patta proceedings. Thus, all the patta proceedings under the Tamil Nadu Patta Passbook Act, 1983 are to be kept in abeyance till the conclusion of the civil litigation, now pending between the respective parties.

6. In this view of the matter, all the Patta proceedings including the application for cancellation of Patta and the enquiry proceedings are kept in abeyance till the conclusion of the civil litigation between the parties. After the conclusion of the civil litigation, the respective parties are at liberty to submit a fresh application for grant of Patta or cancellation of Patta or otherwise in the manner known to law.

7. The writ petition stands disposed of with the above observation. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(Audit)

//True Copy//

Sub Assistant Registrar

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To

- 1.The District Collector,
Villupuram District.
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O/o. the Revenue Divisional Officer,
Kallakurichi,
Villupuram District.
3. The Tahsildar,
Sankarapuram Taluk,
Villupuram District.

+1cc to the Government Pleader Sr.56392
+1cc to M/S.G.Balamani kandan, Advocate Sr.55989
+1cc to Mr.S.Ananda kumar, Advocate Sr.55876

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sj[co]
srg 10/09/2018