



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.11.2018

WEB COPY

CORAM :

THE HONOURABLE MRS.JUSTICE V. BHAVANI SUBBAROYAN

W.P. (MD) No.22526 of 2018

V.Arokia Manuvel Rajan

..... Petitioner

Vs.

1.The District Revenue Officer,
Tirunelveli District.

2.The Revenue Divisional Officer,
Tirunelveli District.

3.The Tahsildar,
Radhapuram Taluk,
Tirunelveli District.

4.M.Sundar

5.S.L.Bright

6.Saraswathi

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records pertaining to the impugned order passed by the first respondent herein vide proceedings in Na.Ka.A2/C.P. No.10/2016 dated 29.09.2018 and quash the same.

For Petitioner

: Mr.V.Balaji

For R1 to R3

: Mr.P.Kannidevan

Additional Government Pleader

O R D E R

This writ petition has been filed for issuance of Writ of Certiorari to quash the impugned order passed by the first respondent herein vide proceedings in Na.Ka.A2/C.P. No.10/2016 dated 29.09.2018.

2. The petitioner states that he is aggrieved by the order of the second respondent, who has cancelled the patta issued by the third respondent for the lands in Survey Nos.1651/1, 1652/6 purchased by sale deed dated 13.01.2006 by DOC Nos.50/06, 51/06 vide proceedings in RTR/3531/09, dated 01.10.2009 by rectifying the



erroneous entry. The fourth respondent filed O.S.No.22 of 2011 before the Additional District Munsif Court, Valliyoor for declaration and mandatory injunction against the petitioner. The petitioner also filed a suit in O.S.No.36 of 2011 for a similar prayer. In the meanwhile, the third respondent's order was challenged by the fourth respondent herein by way of an appeal and the appeal was disposed of by order dated 21.01.2011 in Na.Ka.No.A1/7515/09. The second respondent transferred the patta in the name of the fifth respondent in respect of all the five survey numbers. Even though patta was transferred only in S.No.1651/1 and 1652/1 in petitioner's name, the petitioner has filed a revision before the District Revenue Officer the first respondent herein and on 07.02.2012, the District Revenue Officer has allowed the revision petition and remitted the matter back to the second respondent for fresh consideration through proceedings A2 C.P.No.14/11 dated 07.02.2012. The second respondent, without considering the materials placed before him, simply passed the very same order on 27.10.2015 in NIMU 8484/2011(A1) and it has been challenged before the first respondent by filing revision by the petitioner herein. The first respondent has passed the impugned order on 29.09.2018 after considering all the materials on record and after hearing the petitioner elaborately. The first respondent failed either to stay the orders passed by the second respondent during the pendency of the suit or to revert back the parties to the order passed by the third respondent herein vide RTR/3531/09, dated 01.10.2009, which will have an impact on the outcome of the pending suit.

3. The first respondent in the impugned order has held as follows:

Since I.A.No.966 of 2016 in O.S.No.36 of 2011 and I.A.No.473 of 2017 in O.S.No.22 of 2011 are pending before the District Munsif Court, Valliyoor, the first respondent has held that any order passed in this petition would have an impact on the pending suit which may subjudice to the interest of the parties. Therefore, the petitioner is directed to establish his title before the civil court and thereafter approach the authorities for issuance of patta.

4. The learned counsel for the petitioner challenged the said order by contending that the order of the first respondent will have an adverse impact in facing the pending civil suits in O.S.Nos.22 and 36 of 2011 and the first respondent has arbitrarily passed the impugned order, without considering the materials produced.

5. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 to 3. This Court has perused the materials available on record.

6. The Government has issued G.O.(Ms)No.409, Revenue SSI(1) Department dated 02.07.2008, which reads as follows:



The Special Commissioner and Commissioner of Land Administration in his references 3rd, 5th and 7th read above has sent a proposal to Government for withdrawal of the provision of Second Revision powers from Commissioner of Land Administration on Transfer of Registry cases. Besides, the Special Commissioner and Commissioner of Land Administration has also requested the Government to accord permission to refer all existing cases of revision on transfer of registry to the appropriate Civil Courts; and also to permit to retain only the cases for which hearing have commenced; and to return the remaining cases to the petitioners directing them to seek remedy in the appropriate Civil Courts.

2. For withdrawing the second revision powers on transfer of Registry cases he has cited the judgment pronounced by the Hon'ble High Court, Chennai in W.A.No. 1342/94 and C.M.P.No.15872/94 dated 26.10.1994, in which he has pointed out that the Revenue forums have no jurisdiction to decide either the right or title of land in patta transfer cases and it is for the Civil Courts to decide such issues. As difficulties are experienced in dealing with the Second Revision cases, the Special Commissioner and Commissioner of Land Administration has pointed out that numerous appeals pave the way for issues being dragged endlessly and the Special Commissioner and Commissioner of Land Administration having been over burdened with multifarious issues relating to lands spreads over the entire state.

3. The Special Commissioner and Commissioner of Land Administration has suggested draft amendment to the existing R.S.O. Para 31.8(A) by way of deletion of the following lines:-

"A further revision to the Commissioner of Land Administration can be made within 30 days from the date of receipt of the order and the orders of the Commissioner of Land Administration are final".

4. In the above circumstances, the Government examined the proposal of the Special Commissioner and Commissioner of Land Administration in detail, and decided to accept the Amendment to R.S.O.31.8(A) as mentioned in para 3 above. Accordingly, the Government direct the Special Commissioner and Commissioner of Land Administration that all ongoing enquiries may be carried on to the logical conclusion and orders issued. The Special Commissioner and Commissioner of Land Administration should ensure that in all cases where enquiries are not commenced, they may be returned back with a direction to approach competent court of law.



7. In view of the above said Government order, this Court is not inclined to interfere with the order passed by the first respondent. This Court directs the concerned parties to pursue the civil cases pending and the concerned lower court has to decide the cases as expeditiously as possible since it is pending from 2011.

8. Though this writ petition has been filed for quashing the said impugned order, during argument the learned counsel for the petitioner would submit that the observation made by the official respondents before this Court should not affect the case of the petitioner before the civil court and he prayed that a direction to be issued that the concerned lower court should independently decide the issue. This Court is not inclined to say so and it is for the parties concerned to put forth their case effectively and establish their titles.

9. With the above direction, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(crl side)

/True Copy/

Sub Assistant Registrar(CS-I)

To,

1. The Additional District Munsif,
Valliyoor.
2. The District Revenue Officer,
Tirunelveli District.
3. The Revenue Divisional Officer,
Tirunelveli District.
4. The Tahsildar,
Radhapuram Taluk,
Tirunelveli District.

+1cc to Mr.V.Balaji, Advocate Sr.No.94461
+1cc to Spl.Government Pleader Sr.No.94757

CM

VB/SV/SAR1/12.12.2018/4P/7C

W.P. (MD) No.22526 of 2018
08.11.2018