IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.07.2019

CORAM :

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. No.12006 of 2009
and M.P.No.1 of 2009
W.M.P. 20330/2018.

G.Krishna Reddy,
S/o.Goopalli Reddy. ...Petitioner

Versus

1.The District Revenue Officer,
Krishnagiri District.

2.The Revenue Divisional Officer,
Hosur, Krishnagiri District.

3.The Tahsildar,
Hosur Taluk, Krishnagiri District.

4.M.G.Krishna Reddy,
S/o.Goopalli Reddy. ...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records comprised in proceedings under Na.Ka.24170/2006/J2 on the file of the District Revenue Officer/R-1 dated 18.02.2008 in confirming the order of the Revenue Divisional Officer/R-2 made in Na.Ka.4321/2000(K) dated 09.03.2001 and quash the same.

For Petitioner : Mr.V.Raghavachari

For Respondents : Mr.J.Ramesh for RR1 to 3
Additional Government Pleader.
Mr.C.Ramkumar for R4.

O R D E R

This writ petition has been filed seeking to quash the proceedings in Na.Ka.24170/2006/J2 passed by the District Revenue Officer/R-1 dated 18.02.2008 confirming the order of the Revenue Divisional Officer/R-2 made in Na.Ka.4321/2000(K) dated 09.03.2001.

2.The land comprised in S.No.124/2 ad-measuring 2.94.0 Hectares in Eluvapallai Village, which was a Inam Village of Pagalur Estate originally belong to the maternal grandfather of the petitioner namely Chinna Reddy in his capacity as one of the Inamdar. The said Chinna Reddy has no sons and as such adopted the father of the petitioner namely Goopalli Reddy as his illotom son-in-law by giving her daughter in marriage. After the demise of Chinna Reddy, all the revenue records were mutated in the name of the petitioner's father viz., Goopalli Reddy in respect of S.No.124/2. Based on the earlier settlement proceedings, patta has been issued in the name of the petitioner under the UDR Scheme during updating the revenue records in 1985-86 and he is in enjoyment and possession of the said land. While so, the 4th respondent taking advantage of the fact that his name and his father's name are similar that of the petitioner and his father. The petitioner instituted a suit in O.S.No.241 of 2000 on the file of the District Munsif Court, Hosur, against the 4th respondent and his son for declaration of the title over the property and for consequential permanent injunction and the said suit is still pending. Pending suit, the 1st respondent passed on order dated 09.03.2001 canceling the patta issued in favour of the petitioner and granted patta in favour of the 4th respondent. Aggrieved by the same, the petitioner filed an appeal before the District Revenue Officer/R1 on 24.06.2006 and the same was dismissed vide order dated 18.02.2008 and confirmed the patta in favour of the 4th respondent. Aggrieved by the impugned order, the petitioner filed a revision petition before the Special Commissioner, Land Administration and the same was returned stating that the Government withdrew the power of Principal Secretary and Commissioner of law and further directed to approach the competent Court of law. As against the rejection of interim orders, the petitioner preferred writ petition in W.P.No.11509 of 2008 before this Court and the same was dismissed. Hence, the petitioner has filed the present writ petition challenging the order dated 18.02.2008 passed by the District Revenue Officer/R1, wherein the order of the Revenue Divisional Officer/R2 dated 09.03.2001 is confirmed and directing to issue patta in favour of the 4th respondent.

3.The learned counsel for the petitioner submitted that pending suit petition, the mutation of revenue records is not permissible. Apart from that while the civil suit is pending, change in the name of patta in favour of the 4th respondent is unsustainable one. The learned counsel for the petitioner fairly submitted that though the civil suit is pending before the competent civil court, the appeal filed by the petitioner has been dismissed and the second appeal is pending before this

Court. He further submitted that if the petitioner succeeds in the second appeal and if any petition is filed before the revenue authorities, the revenue authorities shall pass orders as per order of this Court.

4.The learned counsel for the respondent acceded to the submission that if any petition is filed before the revenue authorities, they shall consider the petition and pass orders as per the order of this Court in the second appeal filed by the petitioner.

5.Heard both sides.

6.The admitted facts in the present case is that the 4th respondent initially filed a petition before the Tahsildar for mutation of revenue records. However, the revenue authorities without considering that a civil suit filed by the petitioner in this regard is pending before the competent civil court has granted patta in favour of the 4th respondent. Therefore, an appeal is also filed, which was also dismissed as against the petitioner. Subsequently, a Second Appeal came to be filed before this Court and the same is pending. It is settled law that the Revenue Authorities have no power to decide the title. Therefore, the petitioner has rightly approached the appropriate forum and filed a suit. However, the suit has ended as against the petitioner and thereafter an appeal is filed, which was dismissed and the second appeal is pending before this Court. In the event of the second appeal pending before this Court, I am not inclined to interfere with the proceedings passed by the respondents.

7.Accordingly, this writ petition stands dismissed. However, after disposal of second appeal, liberty is granted to the petitioner to file appropriate petition before the 3rd respondent viz., The Tahsildar, Harur Taluk, Krishnagiri District along with copy of the order of the Second Appeal. The 3rd respondent on receipt of such petition, may pass appropriate orders on merits and in accordance with law. No costs. Consequently, connected miscellaneous petition is also closed.

s/d-
Assistant Registrar(CS V)

True Copy

Sub-Assistant Registrar

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To

1.The District Revenue Officer,
Krishnagiri District.

2.The Revenue Divisional Officer,
Hosur, Krishnagiri District.

3.The Tahsildar,
Hosur Taluk, Krishnagiri District.

+1 CC to Govt. Pleader sr 65505.
+1 CC to Mr.V.Raghavachari, Advocate sr 65286.

W.P. No.12006 of 2009
and M.P.No.1 of 2009

NRJK(CO)
SP(12/09/2019)