IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	06/08/2019
Delivered on	20/08/2019

CORAM:

THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

W.P.Nos.18132, 19255, 19496, 19497, 19560,
19561, 19562, 22216 of 2009 &
W.P.Nos. 1702, 1703, 8818 to 8820, 9712 to 9715,
10335 to 10337 & 15174 of 2010, &
Connected miscellaneous petitions

W.P.No.18132 of 2009

C.Ramesh ... Petitioner

Vs

1.The District Revenue Officer,
Kancheepuram District,
Kancheepuram.

2.The District Collector,
Kancheepuram District,
Kancheepuram.

3.The Tahsildar,
TambaramTaluk,
Tambaram,
Kancheepuram District.

4.Dr.D.S.Rajalakshmi Educational Society and
Institute of Social Services,
Rep. by its President Mr.P.R.Narasimhan,
No.7, Bujangaro Street,
Saidapet, Chennai - 600 015.

5.Mr.P.R.Narasimhan,
President,
No.7, Bujangarao Street, Saidapet,
Chennai - 600 015.

6.M.S.Densy
7.Dr.K.P.Anandan
8.R.Kalavathi
9.K.Subash ... Respondents
(R-9 impleaded vide
order dated 06.08.2019 in
M.P.No.2 of 2010 in
W.P.No.18132 of 2009)

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, calling for the records of the first respondent comprised in its proceeding dated 01.06.2009 passed in Na.Ka.41853/2007 No.4 and quash the same and consequently forbear the respondents, their men, agents, servants or any other person(s) claiming or acting through them from in any manner interfering with the petitioner's right, title, interest and peaceful possession and enjoyment of the property measuring to an extent of 1800 sq.ft. in Plot No.12, Anandan Nagar in S.No.649/1 (New S.No.649/28), situated at No.119, Pallikaranai Village, Tambaram Taluk, Kancheepuram District.

For Petitioner in
W.P.Nos.18132, 19255,
19496,19497, 19560, 19561,
19562, 22216 of 2009 &
W.P.Nos. 1702, 1703,
8818 to 8820, 9712 to 9715,
10335 to 10337 of 2010 : Mr.S.Raveekumar

For Petitioner in
W.P.No.15174 of 2010 : Mr.R.Balachandren

For Respondents 1 to 3
in W.P.Nos.18132, 19255,
19496,19497, 19560, 19561,
19562, 22216 of 2009 &
W.P.Nos. 1702, 1703,
8818 to 8820, 9712 to 9715,
10335 to 10337 of 2010 &
respondents 1,3 to 7
in W.P.No.15174 of 2010 : A.N.Thambidurai
Special Government Pleader

For R2 in
W.P.No.15174 of 2010 : Mr.R.Parthasarathy

For R8 in
W.P.No.15174 of 2010 : Mr.A.Paneerselvam

For Respondents 4 & 5
in W.P.Nos.18132, 19255,
19496,19497, 19560, 19561,
19562, 22216 of 2009 &
W.P.Nos. 1702, 1703,
8818 to 8820, 9712 to 9715,
10335 to 10337 of 2010 : Mr.R.Balachandren for R4 & R5

For 6th
in W.P.Nos.19255,
19496,19497, 19560, 19561,
19562, 22216 of 2009 &
W.P.Nos. 1702, 1703,
8818 to 8820, 9712 to 9715,
10335 to 10337 of 2010 &
for R7
in W.P.No.18132 of 2009 : Ms.K.Jenitha

For respondents 6 & 8
in W.P.No.18132 of 2009 : No appearance

For 9th respondent
in W.P.No.18132 of 2009 : Mr.B.B.Senthil Kumar

COMMON ORDER

Assailing the order of the District Revenue Officer, Kancheepuram, dated 01.06.2009 passed in Na.Ka.No.41853/2007 No.4, W.P.Nos.18132, 19255, 19496, 19497, 19560, 19561, 19562, 22216 of 2009 & W.P.Nos. 1702, 1703, 8818 to 8820, 9712 to 9715, 10335 to 10337 of 2010 have been filed, whereunder, patta issued in favour of one K.P.Anandan was cancelled and it was directed to be restored in the name of Dr.D.S.Rajalakshmi.

2. The prayer in W.P.No.15174 of 2010 is to quash the order of the Principal Secretary and Commissioner of Land Administration, Chepauk, Chennai made in Reference No.K1/30889/2009, dated 24.06.2010, by which, the order of the District Revenue Officer, dated 01.06.2009 has been set-aside and the entries in the revenue records prior to District Revenue Officer's Orders were directed to be restored.

3. The undisputed facts of this case is that Mr.K.P.Anandan and his purchasers on the one side and Mr.P.R.Narasimhan on the other side made rival claim over the property measuring to an extent of 10.20 acres in Survey No.649 at Pallikaranai Village.

4. It is the case of the purchasers of K.P.Anandan that the land in dispute was originally owned by one Narayanasamy Dass, who died intestate in the year 1942, leaving behind his wife N.Sitha Devi and only daughter Rajalakshmi Ammal and after the death of N.Sitha Devi, the said Rajalakshmi Ammal, became the absolute owner of the property. The said Rajalakshmi Ammal was married to one V.P.Palani. During the wedlock, a son K.P.Anandan was born to them. After the demise of Rajalakshmi Ammal, the property devolved on his son. Thereafter, UDR patta No.105 was issued in the name of K.P.Anandan. He formed a lay out and sold the properties to the purchasers, in which, neither Dr.Rajalakshmi Education Society nor Mr.P.R.Narasimhan has any right.

5. According to P.R.Narasiman, the land in dispute was owned and enjoyed by one Narayanasamy Doss and he got patta bearing patta No.601 and after his demise, it was transferred in the name of his son Rangaraju. While so, a suit in O.S.No.1643 of 1952 was instituted by Dr.D.S.Rajalakshmi against the said Rangaraju for recovery of money and in pursuance of the decree passed in the above suit, the property was brought for sale in a Court auction in E.P.No.337 of 1958. The said Dr.D.S.Rajalakshmi was the successful bidder in the Court auction sale and after it was confirmed by the District Munsiff, Poonamallee on 13.06.1959

and it was delivered to her on 07.08.1959, thereby, she became the owner of the property. P.R.Narasimhan would further state that Dr.D.S.Rajalakshmi Ammal formed a registered Society on 14.03.1968 and dedicated the entire property in favour of the Society on 23.03.1968. However, the said K.P.Anandan by using forged documents got UDR patta in his name in the year 1992. Immediately, the said Dr.D.S.Rajalakshmi objected the same and also represented to the Revenue Authorities for cancellation of patta. After the demise of Dr.D.S.Rajalakshmi, the said P.R.Narasimman pursued her claim.

6. The District Revenue Officer (DRO) on the basis of a representation of P.R.Narasimhan, conducted an enquiry and having observed that in respect of 10.20 acres in Survey No.649, patta issued in favour of Dr.D.S.Rajalakshmi Ammal, without any notice to her, came to be cancelled and UDR patta No.105 was issued in favour of K.P.Anandan under UDR Scheme, cancelled the UDR patta and restored in the name of Dr.D.S.Rajalakshmi.

7. Challenging the order of the District Revenue Officer, the purchasers have filed the above Writ Petitions as stated supra.

8. It is not out of place to mention here that M/s.Devinarayan Housing and Property Developments(P) Ltd., Chennai, the second respondent in W.P.No.15174 of 2010, assailed the order of the District Revenue Officer, dated 01.06.2009 in W.P.No.13267 of 2009. The said Writ Petition came to be dismissed, by following the earlier order in W.P.No.12498 of 2009. It seems that the said Company had also preferred a revision before the Principal Secretary and the Commissioner of Land Administration, Chepauk, Chennai questioning the order of the DRO. After the disposal of the Writ Petition No.13267 of 2009, the Commissioner of Land Administration, by his order dated 24.06.2010, set-aside the order of the District Revenue Officer, dated 01.06.2009. Challenging the said order, W.P.No.15174 of 2009, has been filed by Dr.D.S.Rajalakshmi Education Society and Institute of Social Services, represented by its President Mr.P.R.Narasimhan.

9. The Commissioner of Land Administration, set-aside the order the District Revenue Officer on the grounds that no documentary evidence had been produced by Mr.P.R.Narasimhan to show that the land was originally owned by Dr.D.S.Rajalakshmi and the same was dedicated /donated in favour of the Society and after the UDR Scheme was introduced in the year 1979, the land in Survey No.649 in Pallikaranai Village was

recorded in the name of K.P.Anandan. Even if the said K.P.Anandan has fraudulently obtained UDR patta during the UDR Scheme, Mr.P.R.Narasimhan and the Society has not made any attempt to rectify the mistake till it was brought for auction in the year 2005.Further, the said P.R.Narasimhan did not take any steps to prevent the auction sale initiated in May 1998 and until it was sold in the 10th auction held on 10.07.2005.

10. It is to be noted that three of the purchasers of K.P.Anandan filed W.P.No.12498 of 2009, questioning the order of cancellation of patta issued in favour of their vendor by the District Revenue Officer dated 01.06.2009. This Court, after elaborating the case of the parties, dismissed the Writ Petition, relegating the parties to the Civil Court to establish their title. The above order was followed by another learned Single Judge in W.P.No.13267 of 2009, dated 21.10.2009.

10 (a). Mr.S.Ravee Kumar, the learned counsel for the petitioners submitted that the properties were purchased by the petitioners for valid consideration and patta was also issued to the petitioners, that the impugned order is passed in violation of the principles of natural justice as no notice was served on the petitioners and in view of Rule 4(4) of Patta Pass Book Act, any reference to civil court can be made before altering the

patta in the name of existing holder, that the 4th and 5th respondents have no locus standi who have to invoke the jurisdiction of the civil court subject to limitation. The counsel also relied upon various judgments and orders of this Court including the orders in W.P.Nos.1199 and 1200 of 2010 and pleaded for setting aside the order impugned.

10 (b). Mr.B.B.Senthil Kumar, learned counsel for the ninth respondent in W.P.No.18132 of 2009 contended that the properties were not assigned to the Society and that many of the documents have been fabricated by P.R.Narasimhan.

10 (c). Per contra, R.Balachandren, learned counsel appearing on behalf of the 4th and 5th respondents and for the petitioner in W.P.No.15174 of 2010 would contend that since the subject matter of the DRO's order is the alteration of revenue records in favour of K.P Anandan, individual notices need not be issued to the petitioners as the mutation of revenue records in favour of K.P Anandan was alone directly in issue, that the Commissioner of Land Administration without power erred by setting aside the DRO's order dated 01.06.2009 that the patta in favour of the other petitioner's in batch was restored after the commissioner's order, and relying upon the orders in W.P.Nos.12498 and 13267 of 2009 sought the batch of writ petitions to be dismissed and the W.P.No.15174 of 2010 to be allowed relegating the parties to the civil court.

10 (d). Mr.R.Parthasarathy, the learned counsel appearing for the Devinarayan Housing Society(DHS) contended that Mr.Narasimhan has no locus standi to represent the society and the properties were not assigned to the society, that the property was purchased by DHS in a public auction conducted by TIIC, that the commissioner after verifying all the records and noting that no notices were issued and that the DRO without going into the title and without cancelling the patta in the name of the existing holders ought to have referred the parties to civil suit and sought the dismissal of the writ petition in W.P.No.15174 of 2010.

11. Heard the rival submissions on either side and carefully perused the materials available on record.

12. In the case on hand, the questions that arise for consideration are as to whether a patta issued in favour of a person can be set-aside without notice to the aggrieved parties, when the dispute arises over the title of the property and who has to be directed to approach the Civil Court.

13. The dispute over the property has already been narrated supra and hence further elaboration herein is uncalled for. Indisputably, both the parties are claiming title over the property.

14. Two other Writ Petitions in W.P.Nos.1199, 1200 of 2010 were filed by M.Papathi and M.Bakiyalakshmi, who are the purchasers from K.P.Anandan, to set aside the order of the District Revenue Officer, dated 01.06.2009. The learned Single Judge, disposed of the Writ Petitions by a common order, directing the aggrieved parties to approach the Civil Court and get appropriate orders.

15. The issue involved in these cases is no longer *res integra* as the Division Bench of this Court in ***Vishwas Footwear Company Ltd., V. The District Collector, Kancheepuram*** *[2011 (5) CTC 94]* and ***C.Sabesan Chettiar v. The District Revenue Officer, Coimbatore District*** *[2011 (5) CTC 241],* after referring to the provisions in Tamil Nadu Patta Pass Book and the Rules made thereunder, held that in the event of an application is being made that a Patta Pass Book is wrongly issued in favour of any person and consequently title over the land, that person can only file the suit for declaration that the entries made in the Patta Pass Book should be cancelled and consequently for a mandatory injunction for grant of patta. It is further held that that the Revenue Divisional Officer has no jurisdiction to go into the disputed question of title at that time of filing of an application for cancellation of patta is being considered and the Revenue Divisional Officer has only a limited jurisdiction to find out *prima* facie as to the detail and when the title is in dispute and there are rival claims, he

shall refer the parties to the Civil Court for adjudication before altering the patta and depending upon the decree that may be passed by the Civil Court and the relevant entries in the patta could be effected by the Revenue Divisional Officer. The relevant paragraphs of the Division Bench Judgments are extracted hereunder:-

(i) ***Vishwas Footwear Company Ltd***., ***V. The District Collector, Kancheepuram*** *[2011 (5) CTC 94]*

> "*12. ......*
>
> *......*
>
> *......*
>
> *By that provision, in the event any modification is required on an Application by any person, it can be made either by reason of the death of any person or by reason of transfer of interest in the land or by reason of any subsequent change in the circumstances. This Section also does not empower the Tahsildar to cancel the Patta already granted, as the power of the Tahsildar to modify the entries in the Patta Pass Book is limited only in case of death of the person who was holding the Patta Pass Book or by reason of the transfer of interest in the land or by reason of any other subsequent change in the circumstances. In the event an Application is made that the Patta Pass Book has been wrongly issued in favour of any person and consequently claiming title over the land entitling such person to grant of Patta, that person can only file a Suit for declaration that the entries*

made in the Patta Pass Book should be cancelled and consequently for a mandatory injunction for grant of Patta.

14. *Keeping the above in mind, the issue is to be considered. The Writ Appeal raises two important questions. Firstly, whether the Revenue Divisional Officer would be competent to go into the disputed question of title while considering the Application for cancellation of patta. In fact, the law on this is not res integra. As early as in the year 1995, a Division Bench of this Court in Kuppuswami Nainar v. The District Revenue Officer, Thiruvannamalai, 1995 (1) MLJ 426 has observed as follows:*

> *"3. No provision is brought to our notice in the Standing Orders of the Board of Revenue taking away the jurisdiction of the Civil Court to adjudicate upon the question of title relating to immovable property. Revenue Officers in a Patta proceeding may express their views on the question of title, but such expression of opinion or decision is not conclusive and it is only intended to support their decision for granting Patta. Ultimately, it is the Civil Court which has to adjudicate the question as to whether the person claiming Patta is the title holder of the land. Even if the Revenue Authorities decide the question of title, that will not in any way affect the jurisdiction of the Civil Court, which has to decide the question without reference to the decision of the Revenue Authorities.*
>
> *4. Now the question for consideration is, having regard to the fact that the District Revenue Officer has expressed his opinion on the question of title, whether the order under question should be interfered with. It may be pointed out here that in a Petition under Article 226 of the Constitution, the question of title regarding immovable property cannot properly be gone into, because a mass of evidence may be required for adjudicating the*

question of title. Even if we are to interfere with the order under Appeal, it is the other party, who has to go to a Civil Court and establish title. As far as the exercise of jurisdiction under Article 226 of the Constitution is concerned, it does not matter to it whether "A" party goes to Civil Court or "B" party. Therefore, we are of the view that the question of title has to be decided by the Civil Court without reference to the order under question. Hence, we decline to interfere with the order challenged in the Writ Petition. However, we make it clear that in the event a Suit for declaration of title and for appropriate consequential relief is filed, the Civil Court shall decide such a Suit, without reference to the findings recorded by Respondents 1 and 2 in the impugned orders, but only on the basis of the pleadings of the parties and evidence adduced by them before it. We also make it clear that any opinion expressed by the learned Single Judge, contrary to what we have stated above, shall also stand modified accordingly. With these observations, the Writ Appeal is dismissed. Consequently, C.M.P. No. 15872 of 1994 filed along with the Appeal is also dismissed."

15. Following the said judgment, one of us (DMJ) in Chockkappan's case has held that the Revenue Divisional Officer has no jurisdiction to go into the disputed questions of title at the time when an application for cancellation of patta is being considered. As far as this law is concerned, there cannot be a second opinion as to the limited jurisdiction of the Revenue Divisional Officer only to find out prima facie as to the title and when the title is in dispute and there are rival claimants, he should refer the parties to civil Court for adjudication and depending upon the decree that may be *passed by the civil Court, relevant entries in the patta could be effected by the Revenue Divisional Officer.*

21. In the light of the judgments in Kuppuswami Nainar's case and Chockkappan's case, the person who has applied to the Revenue Divisional Officer for cancellation of patta should be directed to approach the civil Court to establish the title and for seeking the grant of patta after cancelling the patta granted in favour of the Appellant company. On this ground, the Appellant is entitled to succeed. Accordingly, the order of the learned single Judge is set aside. The order impugned in the writ petition is set aside and the patta granted in favour of the Appellant company is restored. However, we make it clear that this order shall not stand in the way of the said Alamelu Ammal to approach the civil Court to establish the title and to consequently seek for cancellation of patta granted in favour of the Appellant company and for further direction for grant of patta in favour of the said Alamelu Ammal. With these observations and directions, the writ appeal is allowed. No costs."

(ii) ***C.Sabesan Chettiar v. The District Revenue Officer, Coimbatore District*** *[2011 (5) CTC 241]*

"30. From a reading of Rule 4(4) of the Tamil Nadu Patta Pass Book Rules, it is clear that if the Tahsildar is satisfied that a dispute concerning ownership of patta is already pending in a Court or issues are raised before him which impinge on personal laws or laws of succession and all

the parties interested do not agree on the ownership in writing, he shall direct the concerned parties to obtain a ruling on ownership from a competent Civil Court having jurisdiction before changing the entries already recorded and existing in the various Revenue Records. The Learned Single Judge, in paragraph No. 19 of the order, had specifically held that in terms of Sub-rule (4) of Rule 4, the First Respondent / District Revenue Officer ought to have directed the parties to go before the competent Civil Forum for adjudication of dispute with regard to the ownership, as the Fourth Respondent/Writ Petitioner and the Deceased Appellant / Fourth Respondent disputes the version projected by each one of them.

35. Admittedly, in the instant case on hand, there is a serious dispute with regard to the title of lands measuring an extent of 7.18 acres in S.F. Nos. 547 and 548, Kalapatti Village, Coimbatore District. In cases of this nature, it is not open to the Revenue Authorities, much less the First Respondent / District Revenue Officer, to decide the same. In Civil Law, when there is a dispute between the rival parties touching upon the title to the property, the competent forum would be only the Civil Court. In the instant case, the First Respondent / District Revenue Officer had not followed such a procedure. However, he had chosen to decide the title in respect of the said property mainly relying upon the reports submitted by the Second Respondent / Revenue Divisional Officer and the Third Respondent / Tahsildar."

16. In the matter on hand, when a survey was conducted under

UDR Scheme, the name of the said K.P.Anandan was recorded as owner of the property and a patta bearing No.105 was issued in his favour. It is referred in the order of the District Revenue Officer that a criminal case registered against the said K.P.Anandan was closed as "Civil in nature". However, relying on a statement of one of the witnesses, the District Revenue Officer came to the conclusion that the said K.P.Anandan obtained patta by committing forgery. However, the Principal Secretary and Commissioner of Land Administration held that there was no material to show that the said Dr.Rajalakshmi Ammal purchased the property in a Court auction and no revenue records were produced evidencing payment of kist.

17. It is not disputed that the said Dr.Rajalakshmi Ammal died in the year 1999. As per the dictum laid down in the decision of the Division Bench, referred supra, when the said P.R.Narasimhan approached the DRO for cancellation of patta issued in favour of K.P.Anandan, claiming right over the property and when the Dristrict Revenue Officer found a rival claim over the property in dispute, he should not have gone into the title of the parties and he should have relegated the said P.R.Narasimhan to establish his title/right before the competent Civil Court. Even before this Court, no documents relating to the locus of P.R.Narasimhan and the society to claim any right over the properties have been produced, which

raises a doubt on the mind of this court. In any case, this court is not venturing deep into that aspect now. It is made clear that whenever rival contentions regarding title are raised in proceedings relating to alteration of revenue records including patta, the parties must be relegated to civil court before altering the entries already recording and existing in the revenue records as on the date of adjudication. This court is of the view that in the findings the DRO has exceeded his authority by deciding the title in complete derogation of procedures to be followed during alteration of revenue records when there were more than 25 persons with vested rights claiming title and in possession as on the date when the order was passed. This court is refraining from going deep into the facts as it might affect the rights of either parties and as it is also settled law that even the writ court cannot go into disputed questions of fact.

18. In so far as the appeal filed by the 2nd respondent in W.P No 15174/2010 is concerned, though it is deplorable, a party aggrieved cannot be prevented or shunted from exercising his right to invoke a remedy available in law.The Principal Secretary and Commissioner of Land Administration, in my view, rightly set-aside the order of the District Revenue Officer, dated 01.06.2009 and directed to restore the patta in the name of K.P.Anandan while referring the parties to establish their title.

Since the order has been made in an appeal filed by the Company, in which others were not added as parties, the learned counsel Mr.Ravee Kumar submitted that in order to avoid technicalities the order impugned in the batch of Writ Petitions may be set aside by also considering that no notice was served on the petitioners.

19. It is not in dispute that the property had devolved upon the petitioners and revenue records were mutated in their names before the impugned orders were passed. It is also not in dispute that no notices were individually sent to the petitioners who had purchased the land for valuable sale consideration. In fact, the DRO has in his proceedings recording that the properties stand in the name of the petitioners, altered the revenue records cancelling the patta issued in favour of their predecessor without even issuing notice to the petitioners. As the properties and revenue records were standing in the names of the petitioners and any order altering the records would affect their rights, the DRO ought to have issued individual notices to the petitioners before passing orders. Revenue Standing order BSO 31 Rule 3 also fortifies the position that alteration of revenue registry cannot be made without notice to concerned parties. Therefore, the order impugned is also vitiated for violation of principles of natural justice. It is settled law that an Administrative or quasi judicial decision must be in consonance with the principles of natural justice. Hence

the impugned order cannot survive on that score also.

20. In the light of the decisions of the Division Benches referred supra, with great respect, I am unable to follow the judgment of the learned Single Judges in W.P.No.12498 of 2009, dated 15.09.2009 and in W.P.No.13267 of 2009, dated 21.10.2009. Also, in both the writ petitions, the issue of violations of principles of natural justice was not agitated or decided.

21. For the foregoing reasons, the orders impugned in W.P.Nos.18132, 19255, 19496, 19497, 19560, 19561, 19562, 22216 of 2009 & W.P.Nos.1702, 1703, 8818 to 8820, 9712 to 9715, 10335 to 10337 of 2010 are set aside and the above Writ Petitions are allowed. As the properties and revenue entries stand in the name of the petitioners, it is only the 4th and 5th respondents who dispute the title have to approach the civil court. If the 4th and 5th respondents approach the civil court, the civil court is to decide such suit on merits and in accordance with law taking into consideration the bar of limitation. The alteration of revenue records against the petitioners or their predecessors can take place only after the verdict of the civil suit and if it goes against the petitioners. The 9th respondent is also at liberty to work out his remedy under the law. The writ

petition in W.P.No.15174 of 2010 filed by Dr.D.S.Rajalakshmi Educational Society and Institute of Social Service, represented by its President P.R.Narasimhan, is dismissed. There is no order as to costs. Consequently, connected miscellaneous petitions are closed.

20/08/2019

Index : Yes/No
Internet : Yes/No

Speaking/ Non Speaking Order

r n s / pvs

K.KALYANASUNDARAM.J.

r n s

To

1.The District Revenue Officer,
Kancheepuram District,
Kancheepuram.

2.The District Collector,
Kancheepuram District,
Kancheepuram.

3.The Tahsildar,
TambaramTaluk,
Tambaram,
Kancheepuram District.

Pre Delivery order in
W.P.Nos.18132, 19255, 19496, 19497, 19560,
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