IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 29.01.2019
CORAM
THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.24692 of 2018
and
W.M.P.Nos.28728 to 28730 of 2018
and
W.M.P.No.31328 of 2018

1.Munirathinam
2.K.Chinnappa Reddi .. Petitioners

Vs

1.The State of Tamil Nadu
Rep.by its Principal Secretary
Revenue Department
Fort St.George, Chennai - 600 009.

2.The District Collector
Vellore District, Vellore

3.The District Revenue Officer
Vellore District, Vellore.

4.The Tahsildhar
Katpadi Taluk
Katpadi
Vellore District.

5.G.Kannamma

6.G.Bhuvaneswari
(R5 & R6 impleaded as per Court order
dated 10/10/2018 in W.M.P.No.31324/2018
in W.P.No.24692 of 2018) .. Respondents



PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue Writ of Certiorarified Mandamus, seeking to call for the records on the file of the 4th respondent in connection with the Order passed by him in his Proceedings in survey No.70/4C and 32/1 in Na.Ka.P2/3943/2017 dated 01.09.2017 and quash the same and direct the respondent not to effect any change in the patta till the final Orders passed by this Hon'ble Court in STA.No.1/2016 dated 11.05.2016; STA.No.7/17 dated 22.12.2017.

For Petitioners : Mr.R.Singaravelan, Senior counsel for M/s.M.Rajamani

For Respondents : Mr.M.Elumalai, Government Advocate for R1 to R4

Mr.S.Thankasivan for R5 & R6

O R D E R

The order passed by the 4th respondent in proceedings dated 01.09.2017 is sought to be quashed in the present writ petition.

2.The petitioner states that the respondents 4 & 5 filed Civil Miscellaneous Appeal in S.T.A.No.1 of 2016 against the dead persons, challenging the order of the Settlement Tahsildar - IV, Chengalpattu dated 15.06.1970, after a lapse of about 43 years. Inspite of the objections raised by the writ petitioners, the appeal was heard and decreed as prayed for in favour of the respondents 4 & 5 on 06.07.2015. Based on the decree obtained in a fraudulent manner, the respondents 4 & 5 submitted a petition to the Tahsildar for grant of patta and accordingly, the writ petitioners preferred an appeal against the judgment and decree passed in the Civil Miscellaneous Appeal before this Hon'ble Court. The interim stay of the judgment and decree passed in C.M.A.Nos.2 & 3 of 2013 was granted, the S.T.A.s are pending with an interim order.

3.It is contended that in view of the fact that the appeal filed by the writ petitioners are pending before this Court, the Tahsildar ought not to have passed an order. However, the Tahsildar passed an order pursuant to the directions issued by this Court in a writ petition to consider the appeal. Now, it is brought to the notice of this Court that the S.T.A.No.1 of 2016 and S.T.A.No.7 of 2017 are pending before this Court and the said appeals were filed against the orders passed in C.M.A.Nos.2 & 3 of 2013.

4.The Tahsildar and the revenue officials cannot adjudicate the title or ownership in respect of the immovable properties. Section 37 of the Patta Pass Book Act states that if any owner submits an application seeking patta, then alone, an enquiry shall be conducted and after verifying the records, patta can be granted in favour of the applicant. In the event of any dispute between the parties, then the Tahsildar or any other Appellate authorities are bound to direct the respective parties to approach the competent Civil Court of law for adjudication of title or ownership in respect of the immovable properties.

5.In the present case on hand, the patta was initially granted based on the order passed in C.M.A. Now, the writ petitioners brought to the notice of this Court that an appeal is filed against the decree and judgment passed in the C.M.A. And the said appeals are pending before this Court with an interim order. Thus, the civil litigations are still pending and the finality is yet to be reached.

6.Under these circumstances, adjudication of the issues under the Patta Pass Book Act is certainly not preferable. The Commissioner, Revenue Administration also has issued circular to all the officials that in the event of any civil dispute or the suits pending before the Court of law, the revenue officials shall not issue patta or adjudicate the matter relating to title or ownership. The said circular was issued based on the judgment passed by this Court. In any event, the Tahsildar or the Appellate authority has to wait for the final decision in the civil dispute now pending between the parties.

7.Under these circumstances, this Court is of the considered opinion that all the patta proceedings are to be kept in abeyance and after the conclusion of the civil litigations between the parties, the respective parties are at liberty to approach the revenue officials. Accordingly, the respondents are directed to keep all the revenue proceedings including the impugned proceedings under the Patta Pass Book Act in abeyance till the conclusion of the civil litigations now pending between the parties and after the conclusion of the civil litigations, the respective parties are at liberty to approach the revenue officials under the Patta Pass Book Act for grant of patta or cancellation of patta or mutations in revenue records or otherwise.

8.With these observations, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar



//True Copy//

Sub Assistant Registrar

To

1.The Principal Secretary,
Revenue Department,
Fort St.George, Chennai - 600 009.

2.The District Collector
Vellore District, Vellore

3.The District Revenue Officer
Vellore District, Vellore.

4.The Tahsildhar
Katpadi Taluk
Katpadi
Vellore District.

+1 cc to Mr.S.Thankasivan, Advocate Sr.No.7438
+1 cc to Mr.M.Rajamani, Advocate Sr.No.7424
+1 cc to The Government Pleader, Sr.No.8206

W.P.No.24692 of 2018

CSL/21.02.2019