IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.26142 of 2018
and
W.M.P.Nos.30353 & 30367 of 2018

S.Venkatraj ...Petitioner

Vs.

1. The Revenue Divisional Officer,
Chengalpet.

2. The Tashildar,
Officer of Tashildar,
Chengalpet.

3. The Village Administrative Officer,
Puthur, Chengalpet Taluk,
Kancheepuram District.

4.M.Vasanthi ...Respondents

* R1 is impleaded as per the order of this Court dated 14.02.2019 made in WMP. No.35338 of 2018 in WP. No.26142 of 2018

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the 1st respondent letter Na.Ka.No. 3672/2018/A1 dated 24.09.2018 and to quash the same and forbearing the 1st respondent from proceeding further pursuant to the enquiry notice dated 24.09.2018 with reference to the property situated at old Survey No.10/1 B2, assigned New Survey No.10/12 and 10/13 after subdivision measuring to an extent of 9592 Sq Ft in Old Patta No.4040, New Patta No.4115, Puthur Village, Kattangolathur Panchayat Union, Chengalpet Taluk, Kancheepuram District.

For Petitioner :Mr.S.Sundaresan

For Respondents :Mr.R.Govindasamy
Special Government Pleader for R1 to 3
Mr.K.Balachandran for R4

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O R D E R

The petitioner is aggrieved against the order of the first respondent namely the Revenue Divisional Officer, Chengalpet dated 24.09.2018, wherein and whereby, the petitioner was directed not to indulge in any construction activity in the subject matter property, which is pending before the first respondent with respect to patta proceedings.

2. It is the grievance of the petitioner that the first respondent, while dealing with the dispute between the parties arising out of the patta proceedings, cannot go beyond his power and competence and issue the prohibitory order, as impugned in this writ petition and on the other hand, he has to confine himself with the issue arising out of patta proceedings. Therefore, it is contended before this Court that the order of the first respondent, restraining the petitioner from putting up any construction in the subject matter property cannot be sustained.

3. On the other hand, the learned counsel appearing for the fourth respondent, who is the complainant before the first respondent, contended that during the pendency of the patta proceedings, the petitioner is going ahead with the construction, which ultimately would prejudice the right of the fourth respondent.

4. The second respondent filed a counter affidavit, wherein it is stated that the fourth respondent submitted a petition before the first respondent on 14.09.2018 for cancelling the existing patta in the name of the petitioner herein and based on such complaint, the first respondent sent an enquiry notice to both parties and that during the pendency of the enquiry and on finding a prima-facie case, the first respondent has passed the impugned order.

5. Heard both sides and perused the materials placed before this Court.

6. There is no dispute to the fact that the petitioner and the fourth respondent are agitating the matter before the first respondent arising out of the patta proceedings. According to the fourth respondent, the patta which stands in the name of the petitioner has to be cancelled and consequently it should be issued in her favour and on the other hand, the petitioner contends that the patta has been rightly given in her name. The correctness or otherwise of the respective claim has to be gone into and decided by the first respondent by conducting enquiry

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and therefore, this Court at this stage is not expressing any view on the merits of the contentions raised by the petitioner as well as the fourth respondent. However, as the only grievance expressed before this Court is against the interim order passed by the first respondent, which is impugned in this writ petition, this Court is of the view that in a patta proceedings, the Revenue Officials have to confine themselves within the scope and ambit of the power conferred under the Patta Passbook Act and decide the matter without resorting to make any further order or direction, which is of a Civil nature, as the same is the role of the Civil Court and not by the Revenue Officials.

7. Therefore, without expressing any view on the merits of the claim made by the respective parties, the impugned order is set aside and consequently, the first respondent is at liberty to go ahead with the enquiry. It is open to the respective parties to raise all the contentions before the first respondent including the maintainability of the proceedings before the first respondent, if any Civil Suit is filed and the same is pending between the parties, touching upon the title to the property. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

sni/Vri

To

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Chengalpet.

2. The Tashildar,
Officer of Tashildar,
Chengalpet.

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3. The Village Administrative Officer,
Puthur, Chengalpet Taluk,
Kancheepuram District.

+1cc to Mr.Balachandran, Advocate sr.13765
+1cc to Mr.Sundaresan, Advocate Sr.13499
+1cc to the Government Pleader Sr.14654

W.P.No.26142 of 2018

srg 27/02/2019

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