

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2019

CORAM

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.32773 of 2018

and

W.M.P.Nos.37985 of 2018 and 5635 of 2019

P.Karthiga

...Petitioner

Vs.

1. The Union of India represented by
The Chief Secretary to Government,
Government of Puducherry,
Puducherry.
 2. The District Collector- cum-Appellate Authority,
Under the Puducherry Settlement Act, 1970,
Puducherry.
 3. The Tahsildar-cum-Executive Magistrate,
Oulgaret Taluk,
Department of Revenue and Disaster Management,
Oulgaret, Puducherry.
 4. Sandy Marie Chantalle
- ...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 2nd respondent relating to Settlement Appeal No.6 of 2017 as evident from the communication bearing ref: 15688/DRDM/C2/SA/2017 dated 03.10.2018 and quash the same and consequently forebear the 2nd respondent from in any manner conducting any inquiry or proceedings in the complaint/appeal of the 4th respondent.

For Petitioner : Mr.SP Vijayaraghawan for
Mr.G.Thanigaivel

For Respondents: Mr.AV Ramalingam
Additional Government Pleader
(Puducherry) for R1 to R3
Mr.A Antony Robson for R4

O R D E R

The petitioner is aggrieved against the proceedings pending before the 2nd respondent in Settlement Appeal No.6 of 2017 and the consequential notice of inquiry dated 03.10.2018, calling upon the petitioner to appear for inquiry on 08.10.2018.

2. The case of the petitioner is that the Revenue Officials viz., the respondents 2 and 3 cannot look into the title dispute between the petitioner and the 4th respondent in respect of the subject matter property and decide either this way or that way. Therefore, it is contended that the very approach of the 4th respondent before the 3rd respondent-Tahsildar, by way of her complaint to settle the above dispute, is outside the purview of the power conferred on the Revenue Officials. It is further contended that the Tahsildar, even though is not entitled to go into the title dispute between the parties, has however found that two sets of documents are available in respect of the same properties, one with the petitioner and the other with the 4th respondent and therefore, the 4th respondent has to only approach the competent Civil Court and establish her title. Thus, it is contended that when the Tahsildar has rightly chosen to direct the 4th respondent to approach the Civil Court, there is no necessity for issuing further direction to the 4th respondent to approach the 2nd respondent by way of an appeal in respect of the patta standing in the name of the petitioner. By contending so, the learned counsel for the petitioner submitted that the very proceedings before the Revenue Authorities are not maintainable in respect of the title dispute.

3. Counter affidavits are filed by the respondents.

4. It is the contention of the 4th respondent that the petitioner has encroached upon her land and prevented her from enjoying the same by putting up construction. Ventilating such grievance, the 4th respondent has approached the Tahsildar and filed a complaint.

5. Perusal of the complaint dated 21.07.2010 addressed to His Excellency The Lieutenant Governor, Puducherry, which is stated to have been forwarded to the Tahsildar to take action, would show that the 4th respondent has only made allegations against the petitioner as if the petitioner has encroached upon the 4th respondent's land and thereby, is denying her title.

6. Needless to say that when such contentions are raised, the Revenue Officials cannot look into the title dispute and decide the matter in either way. In fact, the Tahsildar, in this case, after conducting a detailed inquiry and going through the materials placed by both parties, has ultimately found as follows:

"CONCLUSION:

Whereas considering the documents and status on ground of the disputed property, it is observed that two different link documents have originated due to the power documents executed by the original owners to different persons. As per the status on ground, the land north of layout of the petitioner has been sold by Mani @ Sivasubramani which confirms the area agreed between the two power holders of original land owner. However it appears that Thiru Mani @ Sivasubramani has not honored his agreement executed with Thiru Srinivasan and Pushparaj pertaining to reserve portion and few plots as per the layout developed by them. It appears that he has not settled the issues as per the agreement executed in the year 1999 which has led to dual claims over some of the plots of agreement executed in the year 1999 which has led to dual claims over some of the plots of the layout of the petitioner. As per the EC produced by the counter petitioner, there could be some other claim based on the document executed by Thiru Mani @ Sivasubramani. At the same time, the layout of the petitioner tallies with the ground and hence the claim of the petitioner found valid. Further on perusal of the document submitted in support of counter petitioner in the name of Meenu Kamath, it is observed that she has shown her document area as plot 22A, 23A without encroachment into layout of the petitioner. Though the validity of the possession of the counter petitioner into the plot No.28 of the petitioner is questionable on the backdrop of the registered agreement executed by his predecessor seller Thiru Mani@ Sivasubramani, it has to be decided by the competent civil court. Therefore, the petitioner is advised to seek remedy through civil forum and with regard to the objection on patta issued in favour of Tmt. Vasanthi she is advised to appeal before the Collector-cum-Appellate Authority for remedy."

7. From the above conclusion arrived by the Tahsildar, it is apparent that in respect of the disputed property, two different link documents are in existence, originated from the same original owners to different persons, namely the petitioner and

the 4th respondent. Certainly, the validity of those documents and the consequential title of the person holding such documents have to be gone into and decided only by the competent Civil Court, as certainly the dispute between the parties is being projected wholly on the title to the same. When such being the position, the Tahsildar has rightly directed the 4th respondent to seek remedy through the civil forum for establishing her title. Having said so, the Tahsildar ought not to have advised the 4th respondent to appeal before the 2nd respondent in respect of the patta.

8. Needless to say that the patta is not a document of title. Therefore, once the title is established before the competent Civil Court, the party, who is in possession of such title decree, is entitled to get mutation in the Revenue records accordingly including the patta. When such being the factual position, this Court is of the view that there is no purpose in allowing the appeal before the 2nd respondent to proceed further with, since any finding with regard to the patta has to fall back on the Civil Court's finding and decree, which are to be rendered on the title suit to be filed by the parties.

9. Accordingly, without expressing any view on the merits and contentions raised by both parties, viz., the petitioner as well as the 4th respondent in respect of the title to the property, this Writ Petition is disposed of, by granting liberty to any of the parties to approach the Civil Court and establish their title by making the other party as well as the other Revenue Officials as party defendants. On succeeding before the Civil Court, it is open to such party to approach the Revenue Authorities and seek for mutation of Revenue Records including patta accordingly. Till such time, the Revenue Officials are directed to defer further proceedings in this matter. No costs. Consequently, connected miscellaneous petitions are closed.

sni/vri

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Chief Secretary,
The Union of India,
Government of Puducherry,
Puducherry.

2. The District Collector- cum-Appellate Authority,
Under the Puducherry Settlement Act, 1970,
Puducherry.

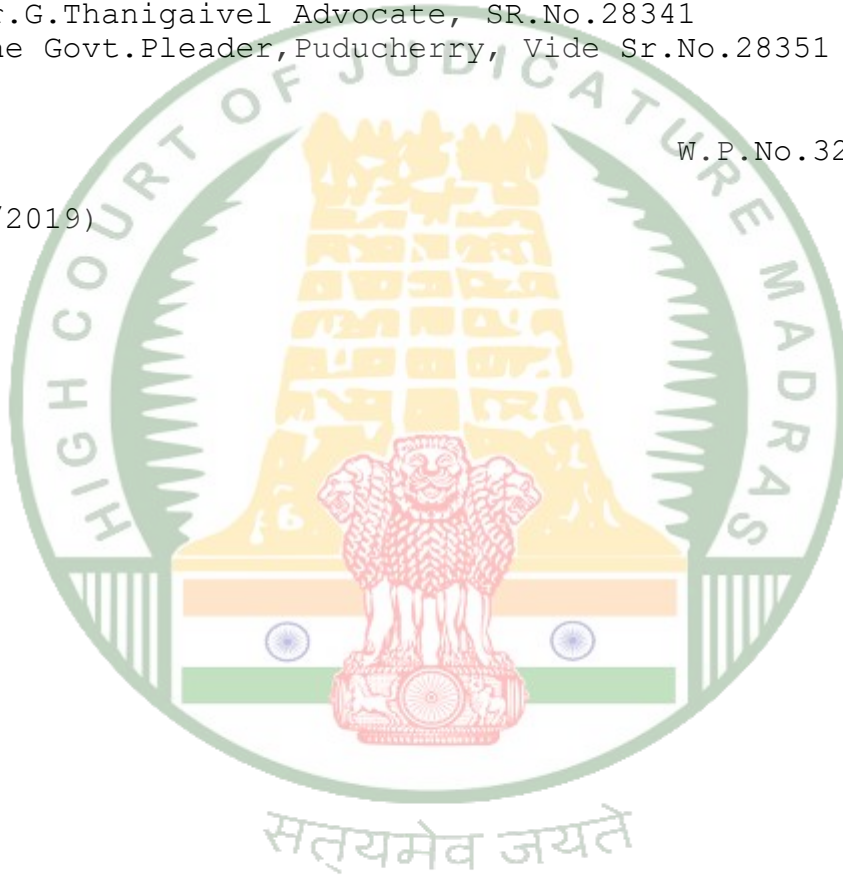
3. The Tahsildar-cum-Executive Magistrate,
Oulgaret Taluk,
Department of Revenue and Disaster Management,
Oulgaret, Puducherry.

+1cc to Mr.G.Thanigaivel Advocate, SR.No.28341

+1cc to the Govt.Pleader,Puducherry, Vide Sr.No.28351

W.P.No.32773 of 2018

Kak(13/05/2019)



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