



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 22.02.2019
CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No. 18813 of 2018 and
W.M.P. (MD) Nos. 16664, 16665 & 19701 of 2018

WEB COPY

Chandra Bakiyalakshmi

... Petitioner

Vs.

1. The District Revenue Officer,
Madurai.

2. Vijaya

... Respondents

PRAYER : Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned order of the first respondent in Na.Ka.No.G2/89476/07 dated 02.02.2018 quash the same.

For Petitioners: Mr.C.Jegannathan,
for M/s.Veera Associates.

For R-1 : Mr.R.Sethuraman,
Special Government Pleader.

For R-2 : Mr.S.Palanivelayutham

O R D E R

Heard the learned counsel on either side.

2. It is not in dispute that the second respondent herein filed O.S.No.531 of 2004 on the file of the II Additional Sub Court, Madurai, seeking the relief of declaration and recovery of possession. The petitioner herein figured as the sixth respondent in the said suit. The suit was dismissed on 24.11.2015. Challenging the dismissal of the suit, the second respondent herein has filed A.S.No.7 of 2016 before the District Court, Madurai and it is still pending. The learned counsel appearing for the second respondent states that an interim order of Status Quo has been passed in the first appeal.

3. It is again not in dispute that during the pendency of the suit proceedings, the second respondent herein filed an application some time in the year 2010 before the District Revenue Officer, Madurai, for mutation of Patta in her favour. The property covered in the aforesaid suit and the subject matter of the application before the first respondent is one and the same. The first respondent by order dated 02.02.2018 allowed the application filed by the second respondent herein and directed mutation of Patta in respect of Survey No.29/8A3 measuring 0.09.5 ares on the western side in favour of the second respondent. This order passed by the first respondent is questioned in this Writ petition.



4. Heard the learned counsel on either side.

5. The second respondent who lost before the civil Court in her suit filed against the Writ petitioner cannot obviously succeed before the Revenue authority. On this sole ground, the order impugned in this Writ petition stands set aside. However, it is made clear that the respective rights of the parties would abide by the outcome of A.S.No.7 of 2016 pending on the file of the District Court, Madurai. If the second respondent succeeds in the said first appeal, it is always open to the second respondent to renew her application before the first respondent who shall pass orders based on the outcome of the said first appeal.

6. With this observation and liberty to the second respondent, the Writ petition stands allowed. No costs. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

The District Revenue Officer,
Madurai.

+1cc to Special Government Pleader, SR.No.49529

+1cc to Mr.S.Palanivelayutham ,Advocate, SR.No.49723

+1cc to M/s.M/s.Veera Associates,Advocate, SR.No.49468

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SP/25.03.2019/ 2P/5C