



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **17.09.2019**

CORAM:

THE HONOURABLE **MR. JUSTICE M. SUNDAR**

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W.P.(MD)No.19798 of 2019
and
W.M.P.(MD)No.16282 of 2019

P.Chinnathambi

... Petitioner

/Vs./

1.The District Revenue Officer,
Sivagangai District, Sivagangai.

2.The Revenue Divisional Officer,
Devakottai, Sivagangai District.

3.The Tahsildar,
Devakottai Taluk Office,
Sivagangai District.

4.K.Panneer Selvam

5.Kasinathan

6.N.Ramanathan

7.S.Ramu Thevar

... Respondents

PRAYER:- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the entire records, relating to the impugned order of 1st respondent in Pa.Mu.Pi4/24046/2015 dated 05.08.2019 and to quash the same insofar as the properties in Survey Nos.15/1A and 15/1B situating in Kurunthanakottai Village, Karkalathur Post, Devakottai Taluk, Sivagangai District are concerned and consequently to direct the 1st respondent to grant Separate Patta to the name of the petitioner insofar as the above mentioned properties to an extent of 1.25 Acres within the time limit that may be stipulated by this Court.

For Petitioner : Mr.M.S.Jeyakarthik

For R-1 to R-3 : Mr.K.Mu.Muthu
Additional Government Pleader

For R-4 to R-6 : Mr.N.S.Karthikeyan
for Mr.B.Ramanathan



ORDER

Mr.M.S.Jeyakarthik, learned counsel on record for writ petitioner, Mr.K.Mu.Muthu, learned Additional Government Pleader, who accepts notice on behalf of respondents 1 to 3 (Official respondents) and Mr.N.S.Karthikeyan, learned counsel for Mr.V.Ramanathan, learned counsel who accepts notice on behalf of respondents 4 to 6 (private respondents) are before this Court.

2. To be noted, 7th respondent is a private respondent. This Court is informed that 7th respondent is sailing with writ petitioner in the proceedings before the revenue authority as well as in the civil Court proceedings.

3. This Court is also informed that the 7th respondent has executed a release deed dated 27.08.2014 in favour of the petitioner pertaining to the property, which forms subject matter of instant writ petition and therefore, 7th respondent has no subsisting interest as of today. Nonetheless, this Court does not intend to pass an order that is adverse to the interest of the 7th respondent.

4. In this backdrop, with the consent of counsel for writ petitioner, counsel for state counsel and counsel for private respondents, main writ petition is taken up, heard out and being disposed of at the admission stage.

5. Subject matter of the instant writ petition is 'land admeasuring 1 acre 66 cents comprised in S.No.15/1 in Kurunthanakottai Village, Karkalathur Post, Devakottai Taluk, Sivagangai District' (hereinafter referred to as 'said land' for brevity).

6. It is also not in dispute that said land has subsequently been sub-divided into S.Nos.15/1A, 15/1B and 15/2 admeasuring 0.14.0 ares, 0.66.0 ares and 0.28.0 ares respectively.

7. This Court is informed that writ petitioner and respondents 4 to 7 are second cousins.

8. Be that as it may, genesis of this entire matter commenced on 09.03.2010, when respondents 5 and 6 in instant writ petition as plaintiffs 1 and 2 filed a civil suit in O.S.No.18 of 2010 on the file of 'District Munsif Court, Devakottai' (hereinafter referred to as 'said trial Court' for the sake of brevity) with prayers *inter alia* for declaration of title and consequential injunction qua said land. To be noted, writ petitioner is defendant No.1 in the said suit.

9. After full contest and trial, the suit came to be dismissed by judgment and decree dated 15.11.2018 by the said trial



Court. Unsuccessful plaintiffs carried this matter in appeal to the first appellate Court namely, the Sub Court, Devakottai, vide A.S.No.14 of 2019, which this Court is informed is a 'regular first appeal' under Section 96 of 'The Code of Civil Procedure, 1908' (hereinafter referred to as 'CPC' for the sake of brevity)

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10. To be noted, plaintiffs 1 and 2 are appellants 1 and 2 in the regular first appeal and writ petitioner before this Court is respondent No.1 in the first appeal. It is submitted without any disputation or disagreement that the first appeal is now pending on the file of the first appellate Court.

11. In the aforesaid scenario, learned State Counsel who accepts notice on behalf of respondents 1 to 3 pointed out that after filing the suit on 09.03.2010, writ petitioner filed a petition before the jurisdictional Revenue Divisional Officer (RDO) ie., Respondent No.2 on 24.07.2013 seeking, what according to the petitioner are certain mistakes in UDR updation. RDO disposed of the proceedings by order dated 09.09.2014.

12. To be noted, RDO is second respondent herein. This matter was carried in appeal by writ petitioner to the first respondent namely jurisdictional District Revenue Officer (DRO) vide an appeal, which this Court is informed that is filed under Section 13 of 'The Tamil Nadu Patta Pass Book Act, 1983 (4 of 1986)' (hereinafter referred to as 'Patta Passbook Act' for the sake of brevity, convenience and clarity).

13. The appeal before the first respondent under Section 13 of Patta Passbook Act was disposed of by the first respondent by an 'order dated 05.08.2019 bearing reference No.Pa.Mu.Pe4/24046/2015' (hereinafter referred to as 'impugned order' for the sake of brevity). Impugned order has been called in question in instant writ petition.

14. A perusal of the impugned order reveals that after full contest, after examining all the records and after considering rival submissions, the first respondent has granted mutation of patta with regard to three subdivisions qua said land and out of three subdivisions, writ petitioner has been held not to be entitled to entries qua patta with regard to S.No.15/1B alone. The first respondent held that the father of respondents 5 and 6 in the instant writ petition is entitled to entry in his name.

15. Therefore, the matter gets narrowed down as far as the writ petitioner is concerned with regard to S.No.15/1B alone which admeasures 0.66.0 ares.

16. What is of importance is vide impugned order, the first respondent has held that if any party to the proceedings is



aggrieved, the party should seek redressal in the civil Court.

17. In the instant case, from the narrative thus far, it is clear that civil proceedings are pending between the parties vide A.S.No.14 of 2019 in the first appellate Court namely Sub Court, Devakottai. This takes to proviso of Patta Passbook Act and in the considered view of this Court, the most relevant provision is proviso to Section 14 of Patta Passbook Act. This Court deems it appropriate to extract the entire Section 14 which reads as follows:

'14.Bar of suits.--No suit shall lie against the Government or any officer of the Government in respect of a claim to have an entry made in any patta pass book that is maintained under this Act or to have any such entry omitted or amended:

Provided that if any person is aggrieved as to any right of which he is in possession, by an entry made in the patta pass book under this Act, he may institute a suit for a declaration of his rights under Chapter VI of the Specific Relief Act, 1963 (Central Act 47 of 1963); and the entry in the pass pass book shall be amended in accordance with any such declaration.'

18. From a perusal of the proviso, it emerges clearly that in a case where there is denial of title or in a case where persons are interested in denying title, the remedy is only by way of civil suit which is otherwise barred qua patta passbook Act.

19. In the instant case, as alluded supra, civil suit filed in the said trial Court is for declaration of title and consequential injunction. Therefore, title *lis* is pending between the parties qua said land which includes S.No.15/1B which writ petitioner is concerned with.

20. In the aforesaid backdrop, considering proviso to Section 14 of the Patta Passbook Act, this Court is left with the considered view that there is no infirmity or illegality in the order of the first respondent and the revenue authorities have to necessarily await the outcome of the civil Court proceedings as rightly pointed out by the learned State counsel. Therefore, this Court deems it fit and appropriate to dispose of this writ petition by holding that the entire proceedings of the first respondent and all consequential proceedings if any shall be kept in abeyance till the outcome of the civil Court proceedings ie., A.S.No.14 of 2019 on the file of the Sub Court, Devakottai.

21. Post disposal of the first appeal, parties shall approach the first respondent if necessary subject to outcome of the first appeal and seek suitable further orders qua impugned order.



22. Instant Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (A.S)

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Sub Assistant Registrar(CS)

To

- 1.The District Revenue Officer,
Sivagangai District,
Sivagangai.
- 2.The Revenue Divisional Officer,
Devakottai,
Sivagangai District.
- 3.The Tahsildar,
Devakottai Taluk Office,
Sivagangai District.

+1 CC to M/s.B.BABU, Advocate SR-87022.
+1 CC to M/s.M.S.JEYAKARTHIK, Advocate SR-87474.
+1 CC to SPL GP SR-87556.

Order made in
W.P. (MD)No.19798 of 2019

Dated:
17.09.2019

CS (15.10.2019) 5P 7C