BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 03.10.2019
CORAM:
THE HONOURABLE **MR.JUSTICE M.SUNDAR**
W.P.(MD)No.21164 of 2019
and
W.M.P(MD).No.17797 of 2019

S.Paramasivam ... Petitioner

/Vs./

1. The District Revenue Officer-cum-
Additional District Magistrate,
Ramanathapuram District,
Ramanathapuram.

2. The Principal,
Pasumpon Tr.U.Muthuramalinga
Thevar Memorial College,
Kamuthi, Ramanathapuram District. ... Respondents

PRAYER:- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, to call for the records relating to the proceedings in Na.Ka.No.B5/74/2018 dated 03.09.2019 on the file of the District Revenue Officer, Ramanathapuram District, Ramanathapuram and quash the same.

For Petitioner : Mr.Y.Prakash
For Respondents : Mr.K.Mu.Muthu (for R1)
Additional Government Pleader
Mr.K.Neelamegam (for R2)

ORDER

Mr.Y.Prakash, learned counsel representing Mr.N.Saravanan, learned counsel on record for writ petitioner, Mr.K.Mu.Muthu, learned Additional Government Pleader who accepts notice on behalf of first respondent (official respondent) and Mr.K.Neelamegam, learned counsel who accepts notice on behalf of second respondent (private respondent) are before this Court.

2.With consent of learned counsel on both sides i.e., all three counsel, main writ petition is taken up, heard out and is being disposed of.

3.Suffice to say that subject matter of instant writ petition is 'lands comprised in Survey Nos.70/3A1B and 70/3A1E, Thavasikuruchi Village, Kamuthi Taluk, Ramanathapuram District' (hereinafter referred to as 'said lands' for the sake of brevity, clarity and convenience).

4.Second respondent has initiated certain patta proceedings before the first respondent pertaining to revenue records qua said lands. After initiating proceedings, second respondent came to this Court by way of a writ petition being W.P(MD).No.19587 of 2019 with a simple prayer to direct the 'first respondent' (hereinafter referred to as 'DRO' for the sake of brevity) to conclude the patta proceedings within a time frame to be fixed by this Court. To be noted, writ petitioner in the instant writ petition is respondent No.5 in the said earlier writ petition. This Court disposed of the earlier writ petition by order dated 17.09.2019, which reads as follows:

' Mr.K.Neelamegam, learned counsel on record for writ petitioner and Mr.B.Bhagawathi, learned Government Advocate on behalf of respondents 1 to 4 (official respondents) are before this Court.

2.From a perusal of the case file and nature of submissions made before this Court, it comes to light that this Writ Petition can be disposed of by passing an order which does not adversely affect or impact the rights of private respondents 5 to 18. Besides not being adverse to the rights of private respondents 5 to 18, adequate safeguard / safety valve is put in place and the same is alluded to infra elsewhere in this order.

3.In the aforesaid background, with consent of learned counsel for writ petitioner and State counsel, main writ petition is taken up, heard out and is being disposed of.

4.The nucleus of this Writ Petition is land admeasuring about 2 acres 70 cents or thereabouts comprised in Survey No.70/3, Thavasikurichi Village, Kamudhi Taluk, Ramanathapuram District (hereinafter referred to as 'said land' for brevity).

5.The rival contentions centre around revenue records and revenue entries qua said land in a tussle between writ petitioner and private respondents 5 to 18.

6.Private respondents 5 to 18 have moved the second respondent ie., jurisdictional 'District Revenue Officer' (hereditary 'DRO' for brevity) and DRO has issued a hearing notice signed on 15.07.2019 bearing Reference No.Na.Ka.No.74/2018 fixing the enquiry on 26.07.2019 at half past 10.00 in the forenoon.

7.Instant Writ Petition has been filed on 06.09.2019 with a prayer to expedite the proceedings *before the second respondent and conclude the same at the earliest.*

8.Post filing of the instant Writ Petition, ie., pending Writ Petition, it is submitted without disputation or disagreement that the second respondent has passed an interim order on 16.09.2019 and that the same is now operating. It is also submitted without any disputation or disagreement that next hearing before the second respondent is scheduled to be held on 18.10.2019.

9.In these circumstances, learned counsel for writ petitioner submits that it will suffice if there is a direction to the second respondent ie., DRO to dispose of and conclude the aforesaid proceedings as expeditiously as possible.

10.With regard to safeguarding the interest of private respondents 5 to 18, it is made clear that private respondents 5 to 18 shall be given reasonable opportunity before the proceedings are concluded. In any event, to be noted, the proceedings itself are at the instance of private respondents 5 to 18.

11.In the aforesaid backdrop, instant Writ Petition is disposed of with a direction to the second respondent to continue and conclude the aforesaid proceedings pertaining to said land as expeditiously as possible and in any event, within a period of four weeks from 18.10.2019 in accordance with law. No costs. Consequently, connected Miscellaneous Petitions are closed.'

5.Prayer in the earlier writ petition, which reads as follows:

'to direct the second respondent to complete the patta proceedings in Na.Ka.Bi.5/74/2018 within a time frame fixed by this Court.'

6.Learned counsel for writ petitioner, placing reliance on ***Vishwas Footwear Company Limited's*** case reported in **2011 (5) CTC 94** and drawing the attention of this Court to paragraph Nos.14, 15 and 17 of the said Vishwas Footwear Company's case, submitted that DRO cannot decide a title dispute. There can be no two opinions about this proposition. Be that as it may, paragraph Nos.14, 15 and 17 of Vishwas Footwear Company's case read as follows:

'*14. Keeping the above in mind, the issue is to be considered. The writ appeal raises two important* *questions. Firstly, whether the Revenue Divisional Officer would be competent to go into the disputed question of title while considering the application for cancellation of patta. In fact, the law on this is not res integra. As early as in the year 1995, a Division Bench of this Court in **Kuppuswami Nainar v. The District Revenue Officer, Thiruvannamalai and others**, 1995 (1) MLJ 426 has observed as follows:*

> *'3. No provision is brought to our notice in the Standing Orders of the Board of Revenue taking away the jurisdiction of the civil court to adjudicate upon the question of title relating to immovable property. Revenue Officers in a patta proceeding may express their views on the question of title, but such expression of opinion or decision is not conclusive and it is only intended to support their decision for granting patta. Ultimately, it is the civil court which has to adjudicate the question as to whether the person claiming patta is the title holder of the land. Even if the revenue authorities decide the question of title, that will not in any way affect the jurisdiction of the civil court, which has to decide the question without reference to the decision of the revenue authorities.*
>
> *4. Now the question for consideration is, having regard to the fact that the District Revenue Officer has expressed his opinion on the question of title, whether the order under question should be interfered with. It may be pointed out here that in a petition under Article 226 of the Constitution, the question of title regarding immovable property cannot properly be gone into, because a mass of evidence may be required for adjudicating the question of title. Even if we are to interfere with the order under appeal, it is the other party, who has to go to a civil court and establish title. As far as the exercise of jurisdiction under Article 226 of the Constitution is concerned, it does not matter to it whether "A" party goes to civil court or "B" party. Therefore, we are of the view that the question of title has to be decided by the civil court without reference to the order under question. Hence, we decline to interfere with the order challenged in the writ petition. However, we make it clear that in the event a suit for declaration of title and for appropriate consequential relief is filed, the civil court shall decide such a suit, without*

reference to the findings recorded by respondents 1 and 2 in the impugned orders, but only on the basis of the pleadings of the parties and evidence adduced by them before it. We also make it clear that any opinion expressed by the learned single Judge, contrary to what we have stated above, shall also stand modified accordingly. With these observations, the writ appeal is dismissed. Consequently, C.M.P.No.15872 of 1994 filed along with the appeal is also dismissed.'

15. Following the said judgment, one of us (D.Murugesan,J.) in ***Chockkappan's case*** *has held that the Revenue Divisional Officer has no jurisdiction to go into the disputed questions of title at the time when an application for cancellation of patta is being considered. As far as this law is concerned, there cannot be a second opinion as to the limited jurisdiction of the Revenue Divisional Officer only to find out prima facie as to the title and when the title is in dispute and there are rival claimants, he should refer the parties to civil Court for adjudication and depending upon the decree that may be passed by the civil Court, relevant entries in the patta could be effected by the Revenue Divisional Officer.*

16.........

17. The question as to whether the revenue authorities be it the Tahsildar exercising power under section 3 or under section 5 or under section 10 or the Revenue Divisional Officer exercising power under section 12, can consider only a prima facie case as to the entitlement of a person or persons for issuance of patta. In the event such officers encounter a dispute which could be resolved only by a competent civil Court, they would not have jurisdiction to enter into such civil dispute for adjudication. To this extent, the judgments in ***Kuppuswami Nainar's case*** *followed in* ***Chockkappan's case*** *may be relied upon. The learned Judge in the order under appeal has also relied upon those judgments and we are in agreement with the same.'*

7.In this backdrop, it is seen that vide impugned order, DRO has directed the respondents before him to not to alienate or put up constructions in said lands, till disposal of the proceedings before him.

8.In the considered view of this Court, it is desirable that the parties do not alienate or put up constructions in said lands, till the conclusion/disposal of the proceedings as it can prevent avoidable complications.

9.Be that as it may, learned State counsel, adverting to the earlier order submits that DRO will conclude and dispose of the proceedings which are underway on or before 15.11.2019 in accordance with earlier order of this Court. It is also submitted that the order of DRO shall be communicated to all the parties concerned within seven (7) working days from the date of the order under due acknowledgement.

10.Instant Writ Petition is disposed of with the above directions. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

To

The District Revenue Officer-cum-
Additional District Magistrate,
Ramanathapuram District,
Ramanathapuram.

+1 CC to Mr.K. NEELAMEGAM, Advocate (SR-91018[F] dated 03/10/2019)

+1 CC to SPL GP (SR-91352[F] dated 04/10/2019)

+1 CC to MR.N.SARAVANAN, Advocate (SR-91539[F] dated 04/10/2019)

rmk
VB 15/10/2019 6P 5C

Order made in
W.P.(MD)No.21164 of 2019
03.10.2019