

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2020

CORAM :

THE HONOURABLE MR. JUSTICE T.S. SIVAGNANAM

W.P.No.15280 of 2007,
M.P.Nos.1 of 2007, 1 of 2008, 1 of 2014 and
W.M.P.No. 27426 of 2019

D.Santhappan

... Petitioner

Vs.

1.P.Loganathan

2.The Tahsildar,
Valapady,
Salem.

3.The Revenue Divisional Officer,
Salem.

4.The District Revenue Officer,
Salem.

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the order of the Tahsildar, Valapady, the 2nd respondent dated 11.10.2004 transferring the patta No.155 relating to land in Sy. No.26/6 measuring 1.6.50 Hectares in Masinaickenpatti Village, Valapady Taluk, Salem District, in favour of Loganathan, the 1st respondent herein and to quash the same and directing the 2nd respondent to restore the patta No.155 in the name of the petitioner herein in respect of land measuring 1.6.50 Hectares in Sy.No.26/6 in Masinaickenpatty Village, Valapady Taluk, Salem District.

For Petitioner : Mr.D.Shivakumaran

For R1 : Mr.T.M.Hariharan

For R2 to R4 : Mrs.A.Madhumathi
Standing Counsel

O R D E R

Heard Mr.D.Shivakumaran, learned counsel for the petitioner, Mr.T.M.Hariharan, learned counsel who had filed vakalat for the 1st respondent who is no more, and Mrs.A.Madhumathi, learned Standing Counsel for the respondents 2 to 4.

2.The petitioner has challenged the patta granted in favour of the 1st respondent bearing Patta No.155. The petitioner's case is that the 1st respondent, who is the maternal uncle of the petitioner, created forged documents as if the property has been transferred in his favour and without notice, patta was transferred from the name of the petitioner to the deceased 1st respondent. The petitioner claims exclusive right over the property pursuant to a settlement deed dated 13.02.1975 executed by Thangammal, grandmother of the petitioner. When the petitioner filed an appeal, the 3rd respondent, by order dated 06.08.2001, granted an order of interim stay. Subsequently, revision petition was filed by the petitioner before the 1st respondent and in the revision petition, the 1st respondent has passed an order on 07.06.2002, directing the petitioner to approach the Civil Court and seek remedy. The petitioner is before this Court challenging the patta granted in the name of the deceased 1st respondent.

3.The petitioner's claim over the property is pursuant to the settlement deed. The allegation against the deceased 1st respondent is that he got the property by forged document. These issues cannot be adjudicated by the revenue authorities. Therefore, the petitioner has to necessarily approach the Civil Court to claim his right, title or interest over the property in question.

4.The learned counsel for the petitioner submitted that a partition suit is pending in O.S.No.24 of 2005 on the file of the Additional Sub-Court, Salem, and in the said suit, the subject property is also one of the plaint schedule property.

5.In any event, if the petitioner claims any exclusive right, his remedy lies in the Civil Court. The revenue authorities cannot enquire into such a dispute. For the above reasons, I am not inclined to interfere with the impugned proceedings, but liberty is granted to the petitioner to approach the Civil Court, either by filing a fresh suit or by urging all the contentions in the pending suit, if the petitioner deems it appropriate. It is needless to state that the Civil Court will decide the title to the property based on oral and documentary evidence and shall not be, in any manner,

influenced or guided by any order passed by the revenue authorities or the patta issued in favour of the deceased 1st respondent.

6.The learned counsel who had entered appearance for the deceased 1st respondent submitted that, at this juncture, if a suit is to be filed, it will be barred by limitation. This issue can very well be urged before the trial Court.

7.With the above observations, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

mkn

To

1.The Tahsildar,
Valapady,
Salem.

2.The Revenue Divisional Officer,
Salem.

3.The District Revenue Officer,
Salem.

+1cc to Mr.D.Shivakumaran, Advocate SR.No.22786

+1cc to Mr.T.M.Hariharan, Advocate SR.No.23570

+1cc to Government Pleader SR.No.23191

W.P.No.15280 of 2007

RGN(CO)
GMY(11/06/2020)