IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :03.01.2020
CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.15971 of 2013
and M.P.No.1 of 2013

1. A. Kuppusamy(deceased)
2. Muthuvel Kuppusamy
3. Senthil Kumar Kuppusamy
4. Maragathavalli Kuppusamy
5. K. Chandrasekar ...Petitioners

[Petitioners 2 to 5 are substituted as legal heirs of deceased A.Kuppusamy as per order dated 14.11.2019 made in WMP.No.32018 of 2019]

-vs-

1. The District Revenue Officer,
Collectorate,
Coimbatore – 641 018.

2. The Revenue Divisional Officer,
Collectorate, Coimbatore – 641 018.

3. The District Surveyor,
Collectorate, Coimbatore – 641 018.

4. N. Saravanan ... Respondents

Petition under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records of the 1st respondent pertaining to his proceedings in Na.Ka.No.8370/2012/E1 dated 28.05.2013 and quash the same and consequently direct the 1st respondent to issue patta to the petitioner, after carrying out fresh sub-division, in respect of the land measuring acre 1.03 in survey No.450/1G, Karumathampatti Village, Sulur Taluk, Coimbatore District.

For Petitioners : Mr.P.Valliappan
assisted by Ms.T.Shivani

For Respondents : Mr.G.B.Rajesh
Government Advocate [R1 to R3]

Mr.K. Govi Ganesan [R4]

ORDER

Heard Mr.P.Valliappan, assisted by Ms.T.Shivani, learned counsel for petitioner, Mr.G.B.Rajesh, learned Government Advocate for respondents 1 to 3 and Mr.K.Govi Ganesan, learned counsel for 4th respondent.

2. With consent of learned counsel on either side, the writ petition itself is taken up for final disposal.

3. The petitioner seeks for issuance of a writ of certiorarified mandamus to quash the proceedings of 1st respondent dated 28.05.2013 and consequently direct the first respondent to issue patta to the petitioner after carrying out fresh sub division in respect of the land measuring 1 acre and 3 cents in survey No.450/1G, Karumathampatti Village, Sulur Taluk, Coimbatore District.

4. The first respondent, by impugned proceedings, has stated that the updation of revenue records scheme has already been concluded and notice having been issued, the petitioner is well advised to approach the Civil Court for necessary relief. The learned counsel appearing for the petitioner would contend that there is a clear bar under Section 14 of the Patta Pass Book Act, 1983 (for brevity 'the Act') barring of suits, suit 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 the Act or to have any such entry omitted or amended. It is the further submission of the learned counsel that this Court has been consistently holding that when there is a wrong entry in the patta, the same has to be set aside and restored to the original position and the party in whose favour the wrong entry was made should be directed to approach the Civil Court. In this regard, learned counsel places reliance on the decision of this Court in the cases of:

> (i) Chockkappan and Ors. Vs. The State of Tamil Nadu [reported in 2004 (1) CTC 136];
> (ii) T.R.Dinakaran Vs. The Revenue Divisional Officer [2012(3) CTC 823];
> (iii) Amsaveni Vs. The District Revenue Officer [2014 (3) CTC 785];
> (iv) Selvaraju Vs. The District Revenue Officer[2015 (6) CTC 654]; and
> (v) V. Boovaraghamoorthy Vs. The District Revenue Officer [2018 (4) CTC 543]

There can be no quarrel on the above legal position, which have been rendered by this Court and one of the leading decision reffered in the above decisions is the judgment of the Hon'ble

Division of this Court in the case of Vishwas Footwear Company Ltd. Vs. The District Collector, Kancheepuram [reported in 2011 (5) CTC 94]. The question would be as to whether these decisions can be applied to the facts of the case and whether there is a bar under Section 14 of the Act for the petitioner to approach the Civil Court.

5. The petitioner owns an extent of 1.03 acres in survey No.450(part) in Karumathampattai Village, Sulur Taluk, Coimbatore District. The said property forms part of larger extent of 12.36 acres, which belongs to one Ganapathy Gounder and Marappa Gounder. The petitioner states that the property devolved by succession and the original petitioner A.Kuppusamy had purchased an extent of 1.03 from one of the successors in interest by sale deed dated 16.11.1982. The 4th respondent also a purchaser from one of the vendors, who got title over the property by succession. It is the case of the petitioner that in the sale deed executed in favour of the 4th respondent, the extent of the property has been wrongly shown as 1.50 instead of 1.05 acres. According to the petitioner, the patta granted in favour of the 4th respondent to an extent of 1.50 acres is incorrect and therefore, the same has to be rectified. With these facts, the petitioner submitted a representation on 14.09.2011 to the 2nd respondent to rectify the entry in the patta. This was rejected by order dated 19.03.2012, as against which a revision petition was filed before the 1st respondent. In the interregnum, 4th respondent filed a writ petition before this Court in W.P.No.14012 of 2012 seeking for issuance of a writ of mandamus to forbear the official respondents from conducting any survey or causing damage to the fencing or altering the physical features measuring 1.50 acres comprised in S.F.No.450/1H, Karumathampatti Village, Sulur Taluk, Coimbatore District. The writ petition was disposed of by order dated 14.04.2012 stating that the writ petition has become infructuous, since already an order has been passed on the representation of the 4th respondent vide order dated 17.05.2012.

6. Thereafter, in the revision, the writ petitioner contented that extent owned by the petitioner was 1.03 acres and the entitlement of the 4th respondent is only 1.05 acres and the 4th respondent has no right over an extent of 1.50 acres. This revision was considered by the 1st respondent and by the impugned order, the same has been rejected and advised the petitioner to approach the Civil Court. Section 14 of the Patta Pass Book Act provides bar of suits, for a suit 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 the Act or to have any such entry omitted or amended. The observations made by the 1st respondent in the impugned order is not to the effect that the petitioner should

file a suit against the Government, but should seek appropriate Civil remedy with regard to the extent of the property mentioned in the sale deed executed in favour of the 4th respondent. If such is the factual position, then the proviso in Section 14 would come into play and the petitioner will be entitled to file a suit against the 4th respondent and seek for a declaration with regard to the extent of the property mentioned in the sale deed executed in favour of the 4th respondent. Therefore, in the considered view of this Court, there is no bar for the petitioner to approach the Civil Court and the 1st respondent had rightly advised the petitioner to do so in the impugned order dated 28.05.2013.

7. The decisions referred to by the writ petitioner in the cases of Chockkappan and Ors., T.R.Dinakaran, Amsaveni, Selvaraju and V. Boovaraghamoorthy are of cases, where a wrong entry was sought to be cancelled. The Court held that the Revenue Authorities cannot adjudicate the right over the property and if there is any erroneous entry, the same has to be deleted and the revenue authorities should direct the petitioner to approach the Civil Court. However, the facts of the present case are different from the facts, which were considered in the aforementioned decisions. Therefore, the decisions cited by the learned counsel for petitioner are distinguishable on facts.

8. As pointed out earlier, the 1st respondent has no authority to rectify the revenue records on the ground that the patta granted in favour of the 4th respondent to an extent of 1.50 acres is in terms of the extent of the property mentioned in the sale deed executed in favour of the 4th respondent. In fact, in the impugned order dated 28.05.2013, the 1st respondent has given a clear finding that entitlement of the 4th respondent is not to an extent of 1.50 acres, but he is entitled to 1.05 acres. Further, he has no authority to rectify the revenue records because the mistake has occurred in the sale deed executed in favour of the 4th respondent where the extent has been wrongly shown as 1.50 acres. Therefore, the 1st respondent was right in not entertaining the request made by the petitioner because, if the same is entertained, it would amount to rectifying the extent of the property in a sale deed thereby indirectly adjudicating the title over the property. Therefore, this Court finds that there is no error in the order passed by the 1st respondent.

9. It is the submission of the learned counsel for petitioner that the 1st respondent was well within the jurisdiction and if he corrects the entry in the pattas, the petitioner need not be directed to approach the Civil Court.

10. In the light of the factual position herein, it is not a mere correction in revenue records, but correction of the extent of the property in the sale deed executed in favour of the 4th respondent, which obviously cannot be done by the revenue authorities.

For all the above reasons, the writ petition fails and the same is dismissed and the petitioner is at liberty to approach the Civil Court for the declaratory releif to correct the extent of the property. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-IV)

// True Copy//

Sub Assistant Registrar

mp

To

1. The District Revenue Officer,
Collectorate,
Coimbatore – 641 018.

2. The Revenue Divisional Officer,
Collectorate, Coimbatore – 641 018.

3. The District Surveyor,
Collectorate, Coimbatore – 641 018.

+2ccs to Mr.P.Valliappan, Advocate, SR.No.876.
+1cc to Mr.k.Govi Ganesn, Advocate, SR.No.6601.
+1cc to Government Pleader, SR.No.992.

W.P.No.15971 of 2013
and M.P.No.1 of 2013

BP(CO)
CSR: 28.02.2020