

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.7406 of 2020
and WMP.No.8866 of 2020

Dr Subbha Somu,
S/o.Late Subbiah.

... Petitioner

Vs.

1. Revenue Divisional Officer,
Chennai Central Division,
5-73, SH 112, Gandhi Nagar,
Anna Nagar West Extension,
Chennai, Tamil Nadu 600 040.

2. Mrs.K.Vanisree,
W/o.Mr.A.V.Karunaharan.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, seeking Writ of Certiorari, to call for the records pertaining to the impugned notice dated 13.03.2020 issued by the 1st respondent under reference Na.Ka.No.657/2020/A2 relating to cancellation of pata issued in favour of the petitioner in respect of the immovable property comprised in Old.S.No.8/4, 8/1B, 8/18 part, 9/1, 9/3, Old T.S.No.5/1, Part, New T.S.No.5/3, Block No.7, Vada Agaram Village, Vada Agaram Division, Egmore-Nungambakkam Taluk, Chennai District, within the Sub-Registration District and in the Registration District of Chennai Central from the files of the 1st respondent, and to quash the same.

For Petitioner : Mr.R.Umasuthan

For Respondents: Mr.Annai Ezhil, for R1
Government Advocate.

Mr.S.Janarthanan, for R2.

O R D E R

This writ petition has been filed challenging the notice issued by the first respondent dated 13.03.2020 calling for an enquiry based on the representation made by the second respondent, wherein the second respondent has sought for cancellation of the patta issued in favour of the petitioner.

2. Heard Mr. Umasuthan, learned counsel appearing on behalf of the petitioner, Mr. Annai Ezhil, learned Government Advocate, appearing on behalf of first respondent and Mr. S. Janarthanan, learned counsel appearing on behalf of the second respondent.

3. It is seen from records that the main objection that has been raised by the petitioner is that there is a comprehensive title suit that is pending in O.S.No.13218 of 2010 and O.S.No.719 of 2019 and therefore the first respondent should not proceed further with the enquiry and to await the final judgment of the civil Court.

4. In the considered view of this Court, this objection can very well be placed before the first respondent and the first respondent shall consider the same before coming to any conclusion. This writ petition has been filed on the very notice issued by the first respondent. Whenever a notice is issued by the authority, it can be interfered by this court only where it is issued without jurisdiction. In the present case, the second respondent has filed an application seeking for cancellation of the patta issued in favour of the petitioner and the competent authority to hear such an application is only by the Revenue Divisional Officer under the Patta Pass Book Act.

5. The main grievance of the learned counsel for the petitioner is that the Revenue Divisional Officer cannot decide the title over the property and in order to substantiate his submissions, the learned counsel relied upon the judgment of the Division Bench of this Court in Vishwas Footwear Company Ltd., Vs. The District Collector, Kancheepuram and 4 others reported in 2011 5 CTC 94.

6. As stated above, this Court can interfere with the notice issued by the first respondent only if it is issued beyond its jurisdiction. A notice cannot be interfered on the apprehension raised by the petitioner that the first respondent will not consider the objections given by the petitioner. The first respondent will be aware about the powers conferred upon him and the limitations that have been spelt out by this Court in a catena of decisions, wherein this Court had categorically held that revenue authorities cannot go into the title of the property and decide the same like a civil Court. The first

respondent must be aware about the said proposition of law.

7.In view of the above discussion, without going into the merits of the case, there shall be a direction to the first respondent to consider all the objections raised by the petitioner and deal with the application submitted by the second respondent strictly in accordance with law and pass appropriate orders within a period of eight weeks from the date of receipt of copy of this order.

8.This writ petition is disposed of with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

rm

To

Revenue Divisional Officer,
Chennai Central Division,
5-73, SH 112, Gandhi Nagar,
Anna Nagar West Extension,
Chennai, Tamil Nadu 600 040.

+lcc to The Government pleader, Sr no.29637 & 29501

SR(CO)
RMP(29/10/2020)

W.P.No.7406 of 2020

सत्यमेव जयते

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