IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.10053 of 2020 and
W.M.P.Nos.12215, 12218 & 12269 of 2020

P.Rukmani ... Petitioner

Vs.

1.The District Collector,
Cuddalore District.

2.The District Revenue Officer,
Cuddalore District.

3.The Revenue Divisional Officer,
Vridhachalam Division,
Vridhachalam, Cuddalore District.

4.The Tahsildar,
Tittakudi Taluk, Cuddalore District.

5.Kolanchi ...Respondents

PRAYER : Writ Petition filed under Article 226 of Constitution of India, seeking Writ of Certiorarified Mandamus, calling for the records of the second respondent in his impugned proceedings dated 22.06.2020 in his proceedings bearing Na.Ka.Vi.3/10112/2019 and to quash the same and directing the respondents to restore the patta in the name of the petitioner within a time frame fixed by this Court and pass orders.

For Petitioner : Mr.G.Ilamurugu

For Respondents : Mr.Annai Ezhil,
Government Advocate for R1 to R4

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O R D E R

This writ petition has been filed challenging the proceedings of the second respondent dated 22.06.2020 and for a consequential direction to restore the patta in the name of the petitioner.

2.The case of the petitioner is that the property in question is a natham land which was originally in possession and enjoyment of the paternal uncle, who settled the property in favour of the husband of the petitioner in the year 1952.

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The further case of the petitioner is that the fourth respondent had also issued an assignment patta in favour of the petitioner in the year 2006.

3.The petitioner was facing threat of eviction and therefore, he filed a suit in O.S.No.78 of 2018 before the District Munsif Court, Thittakudi and the same is pending. In the said suit apart from the private dependants, the Tahsildar, the Revenue Divisional Officer and also the District Collector have been arrayed as defendants. This suit is pending adjudication.

4.In the meantime, the patta that was issued in favour of the petitioner, was cancelled by the proceedings of the third respondent dated 16.03.2019. The petitioner filed an appeal before the second respondent and the second respondent by virtue of the impugned proceedings dated 22.06.2020 has confirmed the order of the third respondent and has held that the petitioner should workout her remedy based on the final decision taken in the Civil Suit. Aggrieved by the same, the present writ petition has been filed before this Court.

5.Heard Mr.G.Ilamurugu, learned counsel appearing on behalf of the petitioner and Mr.Annai Ezhil, learned Government Advocate appearing on behalf of the respondents 1 to 4.

6.The Specific case of the petitioner is that the property has been categorised as a natham and that the petitioner is the owner of the property. It was submitted by the learned counsel for the petitioner that the proceedings were initiated against the petitioner under the Land Encroachment Act and the orders have also been passed and the same was challenged before this Court and this Court has given liberty to the petitioner to file an appeal before the appropriate Authority and in the meantime, to maintain status quo.

7.The petitioner has filed a suit before the District Munsif Court, Thittakudi, on the ground that the property in question is a natham land and no one has any right to interfere with the possession and enjoyment of the property. While deciding the suit, the substantial issue that will be gone into by the Civil Court will be with regard to the nature of the property. The ultimate relief will depend upon a finding on this issue. The second respondent while passing the Impugned Order dated 22.06.2020 has ultimately held that the petitioner can workout her remedy based on the final decision in the Civil Proceedings. On careful consideration of the submission made by the learned counsel for the petitioner, it is clear that the petitioner is not comfortable with certain observations made in the order passed by the second respondent. The petitioner apprehends that these observations will have an impact in the pending Civil Suit.

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8.This Court does not find any ground to interfere with the order passed by the second respondent dated 22.06.2020. The issue with regard to the right of the petitioner over the subject property has been left open to be decided by the Civil Court. The Civil Court will have to independently go into the right of the party based on oral and documentary evidence. The incidental observations made by the second respondent in the Impugned Order will not have any bearing when the Civil Court decides the suit. The Civil Court should not be influenced by any observations made by the second respondent in the Impugned Order dated 22.06.2020. If this clarity is given, the petitioner cannot have any grievance and ultimately the petitioner has to establish her right in the pending suit. Apart from giving this clarification, no further orders can be passed by this Court.

9.In view of the above discussion, this Court is not inclined to interfere with the Impugned Order passed by the second respondent dated 22.06.2020, subject to the above clarification and this writ petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-
Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

vkr

To

1.The District Collector,
Cuddalore District.

2.The District Revenue Officer,
Cuddalore District.

3.The Revenue Divisional Officer,
Vridhachalam Division,
Vridhachalam, Cuddalore District.

4.The Tahsildar,
Tittakudi Taluk, Cuddalore District.

5.The Government Pleader,
High Court, Madras.

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+1cc to Mr.G.Ilamurugu, Advocate SR.No.25936

+1cc to Government Pleader SR.No.26139

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RSV(CO)
GMY(20/08/2020)

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