

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12.02.2020

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No. 35092 of 2016
and WMP.No. 30242 of 2016

O.Velu

...Petitioner

-vs-

1. The District Collector,
Perambalur District Collector,
Office Building,
Perambalur, Perambalur District.
2. The District Revenue Officer,
Perambalur District Collector Office,
Perambalur District.
3. The Sub-Collector,
Perambalur Revenue Divisional Office,
Perambalur.
4. The Tahsildar,
Taluk Office,
Kunnam,
Perambalur District.

5. P. Ilavarasan
6. A. Pichai Pillai,
7. P. Mani
8. P. Ilagovan

... Respondents

PRAYER : Petition under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for connected records pertaining to the passing of the order dated 25.02.2016 in proceeding NK.B2/5690/15 on the file of the 2nd respondent and to quash the same consequently direct the respondents to confirm the petitioner's existing title patta.

For Petitioner : Mr. M.Sathiavel

For Respondents: Mr.G.B.Rajesh
Government Advocate [R1 to R4]

Mr.G.Padmanapan [R5, R6 & R8]
R7 - No appearance.

ORDER

Heard Mr.M.Sathiavel, learned counsel for petitioner, Mr.G.B.Rajesh, learned Government Advocate for respondents 1 to 4 and Mr.G.Padmanaban, learned counsel for respondents 5, 6 and 8.

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

3. The petitioner challenges the order passed by the 2nd respondent dated 25.02.2016, by which, the joint patta granted in favour of the petitioner and 6th respondent in respect of the land in survey No.161/3 was cancelled on the ground that the name of the petitioner was wrongly included in the joint patta during UDR in the year 1987 and accordingly, restored patta in the name of the 6th respondent, who is the original assignee of the land.

4. It may not be necessary for this Court to venture into the factual aspects, the disputes raised before this Court by the petitioner and the 6th respondent as well as the respondents 5, 7 and 8, who are the sons of the 6th respondent because of the fact that three suits are pending in respect of the very same property.

5. The first of suits is one of which is filed by the petitioner's son in O.S.No. 393 of 2014 on the file of the District Munsif Court, Perambalur. The 6th respondent has filed a suit in O.S.No.408 of 2015 for a declaration of title and the same is also pending before the District Munsif Court, Perambalur. O.S.No.84 of 2016 has been filed by the petitioner for a decree and judgment to declare the cancellation of the patta as done by the impugned order as not sustainable in law. In the said suit viz., O.S.No.84 of 2016 Statutory Authorities are not defendants. Therefore, the relief sought for in the present form cannot be granted by the Civil Court unless and until the petitioner is granted permission to amend the prayer and granted permission to implead necessary parties which is required to be decided by the Trial Court in accordance with law. O.S.No.408 of 2015 appears to be an collusive suit. In the

said suit also, officials are not impleaded as defendants. In the meantime, the transaction has taken place i.e., the petitioner has entrusted the property to his sons, who were granted patta in the year 2007 after the impugned order has been passed, the joint patta granted in the year 1984 in respect of the survey No.161/3 in the names of the petitioner and 6th respondent has been cancelled and the entries has been restored exclusively in the name of the 6th respondent and subsequently patta has been transferred to respondents 5, 7 and 8. In any event, the parties have to establish their right independently because it is not in dispute that the land was originally a Government land and was assigned in favour of the 6th respondent. The petitioner claims right over the property pursuant to a original deed, which he has to establish before the Civil Court. Thus, considering all these factors, this Court, at this juncture, cannot entertain a plea against the impugned order as it is for the petitioner to establish his case.

6. The petitioner's case is that as on the date, when the impugned order was passed the UDR patta is no longer in existence as several mutations have taken place. However, the larger question is whether the patta entries during the UDR was proper that is why under the said scheme power had been vested with the District Revenue Officer to correct entries and power was not assigned to the regular Tahsildars. Therefore, if there was any wrong entry during UDR, it would be well open to the District Revenue Officer to rectify such mistake, after hearing all parties. Therefore, at this juncture, challenge to the impugned order cannot be entertained and the petitioner has to await for the outcome of the Civil proceedings. It is open to the petitioner as well as the respondents 5, 7 and 8 to implead the necessary parties, namely, statutory authorities and it is open to the petitioner also to seek for amendment of prayer in the suit and implead all necessary parties, which will be considered by the concerned Court on merits and in accordance with law. The parties can also seek for a joint trial of all the three suits.

7. Taking into consideration over all facts, in order to prevent any further disputes to arise in the instant matter, the official respondents are directed to not effect any further mutation in the revenue records and the respondents 5, 7 and 8 shall not alienate the property.

With the above observations, the writ petition stands dismissed. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

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Taluk Office,
Kunnam,
Perambalur District.

+1cc to the Government Pleader Sr.11794
+2cc to Mr.M.Sathiavel, Advocate Sr.11760
+1cc to Mr.G.Padmanabhan, Advocate Sr.11587

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BS(CO)
srg 06/03/2020