

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2020

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.11613 of 2017
and
W.M.P.No.12629 of 2017

C.Thangaraj ... Petitioner

Vs.

1.The District Revenue Officer,
Tiruppur Collectorate,
Tiruppur.

2.The Revenue Divisional Officer,
Tiruppur.

3.The Tahsilar,
Tiruppur - South.

4.K.Thangaraj ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records of the 1st respondent herein vide order dated 07.02.2017 passed in Na.Ka.No.9260/2016/J1 and quash the same and direct the 3rd respondent to cancel the patta granted to the 4th respondent.

For Petitioner : Mr.K.Venkatasubban

For Respondents : M/s.A.B.Reehana Begum,
Government Advocate
for R1 to R3.
M/s.J.Franklin for R4

O R D E R

Heard Mr.K.Venkatasubban, learned counsel for the petitioner and M/s.A.B.Reehana Begum, learned Government Advocate for the respondents 1 to 3. M/s.J.Franklin for 4th respondent. With consent on either side, this writ petition is taken up for final disposal.

2. The petitioner has filed this writ petition challenging an order passed by the first respondent dated 07.02.2017, rejecting the petitioners revision petition filed against the order passed by the second respondent dated 09.07.2016 and refusing to mutate the patta in the name of the petitioner, as it originally stood in patta No.2811 on the ground that the two suits filed by the petitioner in O.S.No.289 of 2016 and O.S.No.291 of 2016 are pending on the file of the District Munsiff Court, Tiruppur. The petitioner's name was found in the joint patta No.2811 along with 44 others. It appears that one Mr.N.Easwaran, claimed right over the property and filed a suit in O.S.No.291 of 2016 on the file of the District Munsiff, Tiruppur, for a declaration of his title to the property and for a decree of permanent injunction. When the suit was pending, an application was made by the said plaintiff, N.Easwaran for mutating the patta and to include his name in the patta. This application was considered by the third respondent and an order was passed in August 2015, and the same was rejected on the ground that the suit filed by him in O.S.No.291 of 2016 was pending. Even prior to the order of rejection passed by the third respondent, the said plaintiff N.Eswaran, sold the property in favour of the 4th respondent herein by sale deed dated 18.11.2014 registered as document No.2350 of 2015. The fourth respondent after purchasing the property, had filed an application for grant of patta in his name, which was rejected by the third respondent / Tahsildar, as against which an appeal was filed before the second respondent. In the appeal petition, the petitioner raised an objection stating that the suit filed by the vendor of the 4th respondent in O.S.No.87 of 2011 was pending and therefore, mutation should not be effected. The second respondent rejected such a plea on the ground that the suit was not filed by the petitioner / objector, but filed by some other person. One important aspect is, the second respondent has lost sight on the fact that the suit was filed by the vendor of the 4th respondent. Therefore, whatever title the 4th respondent claims, he has to claim it from his vendor N.Eswaran, who has already sought declaration of title before the Civil Court. The petitioner being aggrieved by such order, preferred an appeal to the first respondent and in the mean

time, filed two suits in O.S.No.289 of 2016 for a declaration of title and permanent injunction, and O.S.No.291 of 2016 for decree of permanent injunction. The first respondent while considering the revision petition expressed his inability to consider the same on the ground that the two suits were pending.

3. What is clear from the above narrated facts are that the third respondent, when he passed an order in August 2005 and the first respondent when he passed the impugned order have correctly noted the legal position. However, it is the second respondent, who failed to apply the settled legal principle and passed order. In any event, at this juncture, the question of restoring the joint patta in the name of the petitioner in patta No.2811 is not feasible for consideration because the 4th respondent during the pendency of these proceedings as well as during the pendency of the suit filed by him, has sold portion of the property and the purchasers names have been mutated in the revenue records and patta No.3516 has been issued. The second respondent failed to take note of Rule 4 (4) of the Tamil Nadu Patta Pass Book Rules, 1987 where there are clear terms on the Revenue Authorities from adjudicating upon the title and if there is a dispute regarding the title and ownership, the second respondent was duty bound to direct the parties to approach the Competent Court of law for necessary relief. In any event, now several transactions have taken place, since the suits are pending. Accordingly, the following directions are passed in order to meet the ends of justice:

The respondents 1 to 3 are injuncted from effecting any further changes in the revenue records either at the instance of the 4th respondent or persons who are purchasers from him or any other persons claiming under the 4th respondent and the respondents 1 to 3 shall evade the decision in O.S.Nos.289 & 291 of 2016 pending on the file of the District Munsif Court, Tiruppur.

4. The learned counsel for the petitioner submitted that the 4th respondent may refer to the order passed by the second respondent in the suit to advance his case.

5. This Court in the earlier paragraphs has indicated that the 2nd respondent has lost sight of the fact placed before him in terms of Rule 4 (4). In any event, the Civil Court shall

decide title to the property based on oral and documentary evidence and the 4th respondent, nor persons claiming under him, cannot place any reliance on the order passed by the second respondent dated 09.07.2016.

6. The writ petition stands disposed of, with the above directions and observations. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

Pns

To

1.The District Munsif Tiruppur

2.The District Revenue Officer,
Tiruppur Collectorate,
Tiruppur.

3.The Revenue Divisional Officer,
Tiruppur.

4.The Tahsilar,
Tiruppur - South.

+2 ccs to M/s.Sarvabhauman Associates sr22042

+1 cc to Mr.J.Franklin Advocate sr21965

+1 cc to the Government Pleader sr22682

सत्यमेव जयते

W.P.No.11613 of 2017

aa02/06/2020

WEB COPY