BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 07.01.2020

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THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.(MD) No.11011 of 2012
and
M.P.(MD)No.1 of 2012

N.Ilangovan ... Petitioner

Vs.

1.The District Revenue Officer,
Sivagangai.

2.The Revenue Divisional Officer,
Sivagangai.

3.The Tahsildar,
Manamadurai,
Sivagangai District.

4.M.Jayabharathi ... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records pertaining to the impugned order in Pa.Mu.No.B1/3757/2012, dated 05.06.2012 passed by the first respondent and quash the same.

For Petitioner	:	Mr.A.Rahul
For R1 to R3	:	Mr.A.Muthukaruppan, Additional Government Pleader
For R4	:	Mr.S.Kumar

ORDER

This Writ Petition has been filed to quash the order in Pa.Mu.No.B1/3757/2012, dated 05.06.2012 passed by the first respondent.

2.The petitioner states that the property to an extent of 1 acre and 18 cents comprised in Survey No.68/1 situated in Malavarayanenthal group (Samprayanenthal Village), Manamadurai Taluk, belonged to one Thotthan, son of Mandayan. During the settlement, ryotwari patta was issued in the name of the said Thotthan, to an extent of 1 acre and 18 cents in Survey No.68/1. It is the case of the petitioner that the said Thotthan died leaving behind his two sons as legal heirs and one son, by name, Alagu, was in possession and enjoyment of the land. The petitioner claimed to have purchased the property measuring to an extent of 50 cents in Survey No.68/1 from the said Alagu, one of the sons of the said Thotthan. Based on the sale deed, the petitioner claimed patta in respect of the property, which was purchased by him.

3.The petitioner produced the proceedings of the Assistant Settlement Officer granting ryotwari patta to various persons in different fields. By order dated, 29.09.1971, the said Thotthan was given ryotwari patta for an extent of 1 acre and 18 cents in Survey No.68/1. The A Register, immediately after settlement, also shows that the property is registered. However, the Tahsildar of Manamadurai, by proceedings dated 04.12.1997, sub divided the land and an extent of 0.20.2 hectare was shown as the property of the fourth respondent. Challenging the said order, the petitioner preferred an appeal before the second respondent. The second respondent by an order dated 26.12.2008 allowed the appeal holding that the name of the fourth respondent has been wrongly included in the joint holdings as the fourth respondent has not purchased any property from Thotthan, at any point of time.

4.Thereafter, the fourth respondent preferred a revision before the first respondent. The first respondent, by an order dated 05.06.2012 set aside the order of the second respondent. It was observed by the first respondent that the fourth respondent herein purchased the property vide document No.287/96, dated 30.01.1996 and that she is in possession and enjoyment of the property. The first respondent has decided the title in favour of the fourth respondent on the basis that she is in possession of the property from the year 1996 whereas the petitioner claimed that he purchased the property in the year 2005. The first respondent also observed that the fourth respondent proved her title from the year 1996 without referring any documents. The first respondent has considered the title and decided the title in the proceedings relating to mutation of revenue records. The petitioner filed the present writ petition mainly on the ground that the first respondent is not a competent authority to decide the title, when there is a serious dispute in respect of the property in question.

5.On the contrary, the learned counsel appearing for the fourth respondent produced a judgment and decree in O.S.No.163 of 2010 on the file of the Principal District Munsif Court, Manamadurai, dated 22.12.2014. The said suit came to be filed by the fourth respondent as against the petitioner herein for permanent injunction and the same was decreed as prayed for, after holding that the petitioner herein has not proved that he has purchased the property from the actual legal heirs of the person to whom ryotwari patta was issued in 1971.

6.Though the suit in O.S.No.163 of 2010 is for permanent injunction, the relief was sought for on the basis that the fourth respondent had title. Issues framed in the suit was also regarding the title of the property. The Civil Court declared the title in favour of the fourth respondent.

7.The learned counsel appearing for the fourth respondent relied upon judgment of this Court, in a case of ***Madras Litrex Pvt.Ltd., rep.by its Managaing Director, Vinod Bhatia and two others Vs. Shree Arunachala Foundations Pvt.Ltd., rep.by its Managing Director, R.Ravi and two others*** reported in ***2019 (2) CWC 504*** wherein it has been held that the question of title cannot be decided by the Revenue Officials. It was further observed that the person aggrieved by any of the order passed by the Revenue Department, under the Tamil Nadu Patta Passbook Act, can approach the Civil Court for declaration of their title. It is also held that the Revenue Officials are bound by the decision of the Civil Court and they should carry out or amend the revenue records in terms of the Civil Court decree.

8.Though the order of the first respondent is quite contrary to the principles laid down by this Court, the Civil Court has, in fact, declared title in favour of the fourth respondent in the suit filed by her. In terms of Civil Court decree, the fourth respondent is entitled to get her name included in the records. It is the contention of the petitioner that the fourth respondent has not produced any document to show how she derived title traceable from Thotthan. However, in view of the Civil Court decree in O.S.No.163 of 2010, this Court is unable to interfere with the order of the first respondent. It is relevant to extract Section 14 of the Tamil Nadu Patta Passbook Act, which reads as follows:

> *"14. Bar of suits:- No suit shall lie 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 this Act or to have any such entry omitted or amended:*
>
> *Provided that if any person is aggrieved as to any right of which he is in possession, by an entry made in the Patta Pass-book under this Act, he may institute a suit against any person denying or interested to deny his title to such right, for a declaration of his rights under Chapter VI of the Specific Relief Act, 1963 Central Act 47 of 1963); and the entry in the Patta Pass-book shall be amended in accordance with any such declaration."*

9.In view of the above provision, the Revenue Authorities are expected to mutate the records in terms of the Civil Court decree. In view of the fact that the fourth respondent's title being upheld in the civil suit, the order of the first respondent, holding that the fourth respondent is entitled to get patta in respect of the property in question, do not suffer from any legal infirmity. Hence, this Court find no merits in this writ petition. Accordingly, this writ petition is dismissed and the order of the first respondent is confirmed.

10.However, the learned counsel for the petitioner is unable to get instructions as to whether any appeal is preferred as against the judgment and decree in O.S.No.163 of 2010. In case, the petitioner succeeded in appeal or second appeal establishing his title and possession, it is open to the petitioner to approach the Revenue Officers to get his name included in the revenue records. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

1.The District Revenue Officer,
Sivagangai.

2.The Revenue Divisional Officer,
Sivagangai.

3.The Tahsildar,
Manamadurai,
Sivagangai District.

+1 CC to Mr.S.KUMAR, Advocate (SR-750[F] dated 08/01/2020)
+1 CC to SPL.GP (SR-722[F] dated 08/01/2020)
+1 CC to Mr.A.ARUL, Advocate (SR-701[F] dated 08/01/2020)

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