



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.09.2020

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. (MD)No.14232 of 2011

1.C.Alagu

2.Rasitha Begam

... Petitioners

Vs.

1.The District Collector,
Sivagangai District, Sivagangai.

2.The Revenue Divisional Officer,
Devakottai, Sivagangai District.

3.The Tashildar,
Karaikudi, Sivagangai District.

4.S.Dharamarajan

... Respondents

Prayer: This Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the third respondent in Ni.Mu.(AA6) Ta.Pa.Ma.P.T.R.945/10, dated 30.06.2010 and quash the same and further direct the respondent to restore the patta in the name of the petitioners for their property in S.No.195/15B & 15A admeasuring 0.2.10 Hectares and 0,4.40 Hectares respectively situated at Eluppakudi Village, Karaikudi Taluk.

For Petitioner : Mr.T.Kumar for Balamuruganantham

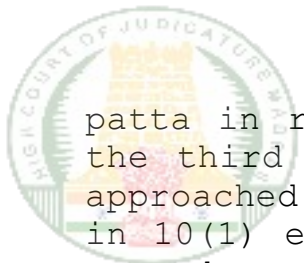
For R1 to R3 : Mr.C.Ramesh,
Government Advocate

For R4 : No Appearance

ORDER

This writ petition has been filed to quash the impugned order passed by the third respondent in Ni.Mu.(AA6) Ta.Pa.Ma.P.T.R.945/10, dated 30.06.2010 and to direct the the respondent to restore the patta in the name of the petitioners for their property in S.No.195/15B & 15A situated at Eluppakudi Village, Karaikudi Taluk.

2.The learned counsel appearing for the petitioners submitted that they have purchased land in survey no.195/15 situated at Karaikudi Taluk, Eluppagudi Village from one A.Kamalam. The patta was also transferred in their names by the order of the third respondent, dated 09.06.2006. Thereafter, the petitioners are in possession and enjoyment of the said property. On 18.08.2010, they have applied for 10(1) extract before the third respondent. The petitioners came to know about the transfer of



patta in respect of land comprised in survey No.195/15B & 15A to the third respondent. He further submitted that the petitioners approached the second respondent to correct the mistakes committed in 10(1) extract through a representation, dated 23.08.2010. The second respondent forwarded the same to the third respondent. The third respondent, by his letter dated 03.11.2010 stated that the patta for the above said survey numbers was transferred to another person and advised them to file an appeal before the second respondent. He further submitted that without giving opportunity to the petitioners, the aforesaid patta transferred to the third party's name and on that sole ground, the impugned order is liable to be quashed.

3.The learned Government Advocate appearing for the respondents 1 to 3 submitted that there is a dispute among the petitioners and the fourth respondent in respect of title of the property in question. That apart, the fourth respondent herein preferred a private complaint before the learned Judicial Magistrate, Karakudi in Cr.M.P.No.3397 of 2011 under Section 156 (3) Cr.P.C., against the petitioners and a case was also registered in Crime No.19 of 2012 for the offence under Sections 419, 420, 468, 471 IPC as against the petitioners. He further submitted that the patta was transferred in the year 2010 and there is appeal remedy is available before the Appellate Authority. Without exercising the said remedy, the petitioners filed this writ petition. He further submitted that the petitioners have to approach the civil Court in the light of the decisions made by this Court in **Kuppuswami Nainar Vs. The District Revenue Officer and others** reported in (1995) 1 MLJ 426, in which, this Court has held as follows:-

"3.No provision is brought to our notice in the Standing Orders of the Board of revenue taking away the jurisdiction of the civil Court to adjudicate upon the question of title relating to immovable property. Revenue officers in a patta proceedings may express their views on the question of title, but such expression or decision is not conclusive and it is only intended to support their decision for granting patta. Ultimately, it is the civil Court which has to adjudicate the question as to whether the person claiming patta is the title-holder of the land. Even if the revenue authorities decide the question of title, that will not in any way affect the jurisdiction of the civil Court, which has to decide the question without reference to the decision of the revenue authorities.

4.Now the question for consideration is, having regard to the fact that the District Revenue Officer has expressed his opinion on the question of title



whether the order under question should be interfered with. It may be pointed out here that in a petition under Article 226 of the Constitution the question of title regarding immovable property cannot properly be gone into, because a mass of evidence may be required for adjudicating the question of title. Even if we are to interfere with the order under appeal, it is the other party, who has to go to a civil Court and establish title. As far as the exercise of jurisdiction under Article 226 of the Constitution is concerned, it does not matter to it whether 'A' party goes to civil Court or 'B' party. Therefore, we are of the view that the question of title has to be decided by the civil Court, without reference to the order under question. Hence, we decline to interfere with the order challenged in the Writ Petition. However, we make it clear that in the event a suit for declaration of title and for appropriate consequential relief is filed, the civil Court shall decide such a suit, without reference to the findings recorded by respondents 1 and 2 in the impugned orders, but only on the basis of the pleadings of the parties and evidence adduced by them before it. We also make it clear that any opinion expressed by the learned Single Judge, contrary to what we have stated above, stand modified accordingly. With these observations, the Writ Appeal is dismissed. Consequently C.M.P.No.15872 of 1994 filed along with the appeal is also dismissed."

4. In view of the above submissions made by the learned Government Advocate and the legal principles of law laid down by this Court (cited supra), the parties concerned have to approach the civil Court, by adducing oral and documentary evidence and this Court under Article 226 of the Constitution of India cannot go into the same. Therefore, the only remedy available to the petitioner is to approach the civil Court to redress his grievance.

5. With the above observations, this Writ Petition is dismissed with liberty to the petitioners to approach the civil Court to redress their grievance, if they are so advised. No costs.

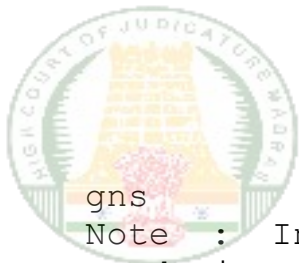
Sd/-

Assistant Registrar (CRL.SIDE)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)



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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The District Collector,
Sivagangai District,
Sivagangai.
- 2.The Revenue Divisional Officer,
Devakottai,
Sivagangai District.
- 3.The Tashildar,
Karaikudi,
Sivagangai District.

+1 CC to SGP (SR-16896[F] dated 15/09/2020)

W.P. (MD)No.14232 of 2011
14.09.2020

SJ(CO)
KM (23.09.2020) 4P 5C