



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :04.08.2020

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

**W.P. (MD) No.8607 of 2020
and
W.M.P. (MD) No.7973 of 2020**

N.S.Naina Mohamed

...Petitioner

Vs

1.The District Revenue Officer,
Ramanathapuram District,
Ramanathapuram.

2.The Revenue Divisional Officer,
Ramanathapuram,
Ramanathapuram District.

3.The Tahsildar,
Keelakarai Taluk,
Ramanathapuram District.

4.N.S.Seeni Jakubar

5.N.S.Ahamed Abdul Kadar

6.N.S.Mohamed Mustafa
(Respondents 4 to 6 rep by
through his power agent
Hathijathu Saliha)

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus to call for the records pertaining the impugned proceeding in Na.Ka.A1/9102/2017 on the file of 2nd respondent filed by the respondents 4 to 6 and quash the same as illegal, unconstitutional and without jurisdiction and consequently direct the respondents 1 to 3 not to change the name in the patta of the suit properties in O.S no.55/2017 before the Additional District Judge,Ramanathapuram.

For Petitioner : Mr.S.A.Ajmalkhan

For R1 to R3 : Mr.M.Pandiarajan

Additional Government Pleader



ORDER

This writ petition is filed to direct the 2nd respondent to reject the application in Na.Ka.A1/9102/2017 and to direct the respondents 1 to 3 not to change the petitioner's name in the patta in respect of the suit properties pending in O.S.No.55/2017 on the file of the Additional District Court, Ramanathapuram.

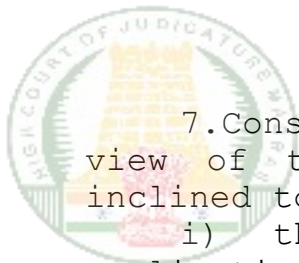
2. According to the petitioner, though the respondents 4 to 6 had earlier filed a suit in O.S.No.35 of 2016 on the file of the Additional District Court, Ramanathapuram for the relief of partition and permanent injunction, which was dismissed as not pressed on 21.09.2016, the respondents 4 to 6 again filed a suit in O.S.No.55 of 2017 on the file of the Additional District Court, Ramanathapuram, for the same relief, in which, the petitioner was arrayed as 2nd defendant. The said suit is still pending before the Court below.

3. Pending the suit, the respondents 4 to 6 herein, by way of filing an application in Na.Ka.A1/9102/2017, approached the 2nd respondent for cancellation of patta, which is in favour of the petitioner in respect of the suit properties in O.S.No.55 of 2017 and for issuing separate patta in their favour. In that regard, the petitioner made a representation dated 18.07.2020 to the 2nd respondent seeking not to proceed with the impugned application in Na.Ka.A1/9102/2017, till the disposal of the aforesaid suit. But, on such representation no action has been taken. Hence, left with no other alternative, the petitioner is before this Court for the relief stated supra.

4. The learned counsel appearing for the petitioner would submit that pending the civil suit, an application in Na.Ka.A1/9102/2017 filed by the respondents 4 to 6 for cancellation of patta, which was granted in favour of the petitioner and for issuing separate patta, cannot be proceeded further.

5. The learned Additional Government Pleader appearing for the respondents 1 to 3 would submit that the Civil Court is the competent authority to decide the issue involved in the present subject matter of the properties. He would further submit that after issuing notice to the petitioner, he was asked to appear for enquiry on 23.06.2020 and 04.08.2020. However, without appearing for enquiry, the petitioner is before this Court.

6. The learned Additional Government Pleader would further submit that the petitioner can approach the Court below to seek his remedy, since the issues have to be adjudicated by the Court below. He would therefore submit that if the petitioner files an objection application for the application filed by the respondents 4 to 6 in Na.Ka.A1/9102/2017 pending before the 2nd respondent, the same shall be considered on merits and in accordance with law.



7.Considering the facts and circumstances of the case and in view of the arguments advanced on either side, this Court is inclined to pass the following directions:-

i) the petitioner is directed to submit an objection application along with necessary documents and the decisions of this Court, if any, for the application filed by the respondents 4 to 6 in Na.Ka.A1/9102/2017 before the 2nd respondent, within a period of two weeks from the date of receipt of a copy of this order;

ii) on receipt of such objection application, the 2nd respondent is directed to dispose of the application filed by the respondents 4 to 6 in Na.Ka.A1/9102/2017, after providing an opportunity of hearing to the parties concerned, as expeditiously as possible, if the same has not been disposed of till date;

8.With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

mm

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 Revenue Officer,
Ramanathapuram District,
Ramanathapuram.

2.The Revenue Divisional Officer,
Ramanathapuram,
Ramanathapuram District.

3.The Tahsildar,
Keelakarai Taluk,
Ramanathapuram District.

+1 CC to SPL GP (SR-13667[F] dated 05/08/2020)

+1 CC to Mr.S.A.AJMAL KHAN, Advocate (SR-13701[F] dated
06/08/2020)

W.P. (MD) No.8607 of 2020

04.08.2020

VB (06.08.2020) 3P 6C

<https://hcservices.ecourts.gov.in/hcservices/>