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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2021

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
and
THE HON'BLE MR.JUSTICE C.SARAVANAN

W.A.No.1325 of 2021
and C.M.P.Nos.8307 & 8310 of 2021

1. P.Balakrishnan
2. C.Sasikala

.. Appellants/Petitioners

Vs

1. The District Revenue Officer,
Office of the District Revenue Officer,
Tiruppur.
2. The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Tiruppur.
3. R.Vengidupathy

.. Respondents/Respondents

Appeal filed under Clause 15 of Letters Patent against the order dated 11.11.2020 made in W.P.No.35902 of 2019.

Prayer in W.P.35902 of 2019:-

Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the proceedings in R.O.C.No.5545/2019/J1 dated 02.12.2019 on the file of the 1st respondent and quash the same and consequently direct the revenue authorities to restore the 'Joint Patta' in Patta No.1290 as it stands before the order dated 18.02.2019 made by the 2nd respondent/RDO till the termination of Civil Suits instituted by these Petitioners in O.S.No.135 of 2018 on the file of the District Munsif Court, Palladam, Tiruppur District.

For Appellants : Mr.V.Karthick, Senior Counsel
for Mr.M.Aravind Subramanyam



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For Respondents : Mr.D.Ravichander
Government Counsel
for R1 and R2
No appearance for R3

JUDGMENT
(Delivered by M.M.SUNDRESH, J.)

Challenging the proceedings of the first respondent dated 02.12.2019 with the consequential direction to restore the joint patta till the termination of the civil suit pending filed by the appellants in O.S.No.135 of 2018, W.P.No.35902 of 2019 has been filed. The aforesaid writ petition was disposed of by the learned Single Judge as could be seen from the following paragraphs:

"17. Both the 2nd respondent as well as the 1st respondent have taken into consideration the entire facts and circumstances of the case and passed the impugned Order. The 1st and 2nd respondents did not decide the title over the property as contended by the learned counsel for the petitioners. On the face of the records, it is seen that the heirs of Palanisamy Gounder and the subsequent purchasers were involved in various proceedings before Civil Courts, Revenue Authorities and also a criminal case and they never succeeded before any authority. The petitioners who are deriving their title through them, can never have a better claim or title to the property. The 1st and 2nd respondents were perfectly right in removing the names of all the Pattadars in Patta No.1290 and directing the names of the 3rd respondent and Manjula to be added in the Patta. They have prima facie proved their title for the entire extent of 11.10 acres in Survey No.273. This Court does not find any grounds to interfere with the orders passed by the 1st and 2nd respondents and the 1st and 2nd respondents have given cogent reasons supported by records to justify their finding in favour of the 3rd respondent.

18. If the petitioners are aggrieved with the entry made in the Patta Pass Book pursuant to the orders passed by the 1st and 2nd respondents, it is always left open to them to go before the Civil Court and seek for declaration of title over the subject property. In fact, they can even seek for an amendment in



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the pending suit in O.S.No.135 of 2018, by adding the necessary reliefs, if the law so permits.

19. In the light of the above discussion, this Court does not find any ground to interfere with the Impugned Order passed by the 1st respondent dated 02.12.2019, confirming the order passed by the 2nd respondent dated 18.02.2019 and accordingly, this writ petition stands dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

2. Heard the learned senior counsel appearing for the appellants and the learned Government Counsel appearing for respondents 1 and 2.

3. Despite the name of the contesting respondent printed in the cause list, there is no representation on behalf of the contesting respondent/third respondent.

4. Learned Senior Counsel appearing for the appellants submitted that a comprehensive suit has been filed though subsequently in O.S.No.35 of 2021 on the file of the District Munsif Court, Palladam. The learned Single Judge after relegating the parties to seek adjudication in the pending suit in O.S.No.135 of 2018 has made an observation on merit, though on a prima facie view.

5. Upon hearing the learned Senior Counsel appearing for the appellants, we do not find any reason to interfere with the order of the learned Single Judge with respect to the final conclusion arrived at except holding that the observation made that a prima facie case has been made out in favour of the third respondent qua the title stands eschewed.

6. When once it is held that the matter will have to be adjudicated upon in the pending civil suit and the very patta proceedings itself is on the prima facie view, the learned Single Judge ought not to have given a prima facie finding on the title of the third respondent.

7. In such view of the matter, the writ appeal stands disposed of by directing the learned I Additional District Judge, Tiruppur to decide O.S.No.565 of 2019 filed by the third respondent along with O.S.No.135 of 2018 and O.S.No.35 of 2021 filed by the appellants pending on the file of the District Munsif Court, Palladam. The aforesaid three cases are to be disposed of on their own merits, without being influenced by any of the observations made by the learned Single Judge and in the



proceedings dated 18.02.2019 and the consequential order passed on 02.12.2019. No costs. Consequently, connected miscellaneous petitions are closed.

8. Taking into consideration the facts and circumstances of the case, the I Additional District Judge, Tiruppur is directed to dispose of the aforesaid matters within a period of six months from the date of receipt of a copy of this judgment.

Sd/-
Assistant Registrar (CS)

// True Copy//

Sub Assistant Registrar

mmi/ssm

To

1. The I Additional District Judge,
Tiruppur.
2. The District Munsif,
Palladam.
3. The District Revenue Officer,
Office of the District Revenue Officer,
Tiruppur.
4. The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Tiruppur.

+1cc to Mr.M.Aravind Subramaniam, Advocate, S.R.No.34222
+1cc to the Government Pleader, S.R.No.34980

W.A.No.1325 of 2021

SR-II (CO)
SU(13/08/2021)