IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2021

CORAM

THE HON'BLE MR. JUSTICE S.S.SUNDAR

W.P.No. 7844 of 2021
and
W.M.P.No.8371 of 2021

V.P. Chinnasamy ...Petitioner

Vs

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

2.K.C. Muthukumar ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Prohibition, prohibiting the first Respondent herein from conducting the enquiry in Na.Ka.3566/2020/A2 till the disposal of the suit in O.S.No.201 of 2020 on the file of the District Munsif Court, Uthukuli.

For Petitioner : Mr.K.Govi Ganesan

For R1 : Mr.S.N. Parthasarathy
Government Advocate

O R D E R

The Writ Petition is filed by the petitioner for issuing a Writ of Prohibition, prohibiting the first Respondent herein from conducting the enquiry with reference to the proceeding in Na.Ka.3566/2020/A2 till the disposal of the suit in O.S.No.201 of 2020 on the file of the District Munsif Court, Uthukuli.

2. Brief facts as could be gathered from the affidavit filed in support of the petition are as follows:-

The petitioner claims title to certain properties in S.F.No.17/3 situated at Valayapalayam Village, Uthukuli Taluk, Trippur District, based on the Partition Deed dated 11.12.1952. It is stated that the 2nd Respondent herein purchased certain properties from his maternal aunt. From a reading of the affidavit, it is seen that there is a dispute with regard to title and enjoyment over the property which is the subject matter of the writ petition. The petitioner states that the Patta stands in the name of the petitioner in respect of the disputed property. It is also admitted by the petitioner that the second respondent herein filed a suit in O.S.No.201 of 2020 on the file of the District Munsif Court, Uthukuli, for bare injunction in respect of the property for which the petitioner also claims title. The petitioner himself admits that the second respondent herein has not filed the suit for declaration of title.

3. Be that as it may, the grievance of the petitioner is that the second respondent has now filed an appeal before the first respondent for cancellation of Patta and that proceedings are now pending before the first respondent, even though the Civil Suit had already been filed by the second respondent. In short, the contention of the petitioner is that the Civil Court is seized of the matter and the Revenue Officials have no power or jurisdiction now to entertain the matter relating to issuance of Patta or the matter relating to mutation of Revenue records.

4. The contention of the petitioner's counsel cannot be accepted, in view of the provisions of Tamil Nadu Patta Pass Book Act, which is a separate piece of legislation, to deal with issuance and mutation of Patta. The object of the Patta Pass Book Act, is to provide for the issuance of Patta to holders of agricultural land. The modification of entries in the Patta Pass Book is permissible under the Act as provided under Section 10 of the Act. The Act suggests that mutation of Revenue records is permissible only on the following three circumstances:-

(a) Either by reason by the death of any person holding Patta, the legal heirs of the deceased are entitled to get Patta as a Successor in interest.

(b) By reason of the transfer of interest in the land by a holder of Patta in favour of another, mutation is permissible.

(c) Patta can also be transferred based on the declaration of one's right in terms of Section 14 of the Tamil Nadu Patta Pass Book Act. The power that can be exercised by the Tahsildar or the Revenue Divisional Officer, the appellate authority is limited to the contingencies mentioned in the Act. However, this limited power is not circumscribed or limited by any other Statute. The Civil Court is competent to decide the title and the decree of Civil Court is binding on Revenue Officials. It cannot be stated that the Revenue Officials have no jurisdiction to deal with the modification of entries in Revenue records, if a suit is pending before Civil Court. Proviso to Section 14 of

Patta Pass Book Act, enables anyone who is aggrieved by any entry in Revenue record to approach civil Court for declaration of his title and the entry shall be amended in accordance with the declaration of civil Court.

5. However, while pending the suit involving issues relating to title, it cannot be said that the Authorities can not exercise the limited power under the Patta Pass Book Act to decide issues relating to Patta. Though the Civil Court's decree is binding on the Revenue Officials, for exercising power under the Tamil Nadu Patta Pass Book Act, there is no prohibition under any legislation to the authorities to deal with petitions falling within their jurisdiction.

6. It is true that the Revenue Officials are bound by the Civil Court's decree while considering the issue relating to title. However no inference can be drawn that the authorities should be refrained from exercising their power under the Tamil Nadu Patta Pass Book merely because a Civil Suit is filed and pending as in this case.

7. The learned counsel for the petitioner relied upon the circular dated 13.03.2018 issued by the Commissioner of Land Administration, wherein it is stated as follows:-

> "2. It is seen from the order of the Hon'ble High Court that when a civil suit was pending between the parties over a disputed land, the Revenue Divisional Officer, Ponneri, has passed orders transferring patta in favour of one of the parties. When the aggrieved party has approached the Hon'ble High Court of Madras in W.P.No.9215 of 2013, the Hon'ble High Court of Madras has given the directions to the Commissioner of Land Administration.
>
> 3. In compliance with the orders of the Hon'ble High Court above cited, the following instructions are issued:
>
> a. Patta should show the names of persons who are the real owners of the land and should be maintained accurately.
>
> b. Whenever, unsolved disputes arise between the parties, the revenue authorities should bear in mind that only civil Courts are competent to decide the title.
>
> c. If any appeal or revision is filed before the Revenue Divisional Officer or District Revenue Officer respectively, the authority concerned should ensure that there is no civil suit pending over the disputed land.

d. If any interested/contesting party has brought to the notice of the concerned authority about the pending suits over the disputed land with the objection supported by a declaration that a civil suit has been filed and is accompanied by an authenticated copy of the plaint, the concerned authority should not pass any orders. Instead, the parties concerned should be directed to seek remedy in the pending suits and approach the revenue authorities on the basis of decree and judgment of the civil court."

8. It is true that the Revenue Officials are exercising their limited Powers confined to modification of entries under the Tamil Nadu Patta Pass Book Act. They are not competent to decide question of title among rivals based on documents. While dealing with issues involving complicated question of law and facts, they may direct the parties to approach the Civil Court. However, the Civil Court's jurisdiction Section 14 of the Tamil Nadu Patta Pass Book Act, does not take away the Power and jurisdiction of the authorities under the Patta Pass Book Act, to deal with the matters that arise before them for consideration. The jurisdiction of the authorities is not ousted merely because a suit on title is pending in Civil Court. Since the petitioner has filed the Writ of Prohibition seeking to restrain the first respondent from conducting any enquiry, this Court has no authority to restrain the authorities from exercising their statutory provision under the Tamil Nadu Patta Pass Book Act. The limited jurisdiction of Revenue Officials is not ousted, merely because a suit is filed. Merely because disputed questions of title are likely to be settled by civil Court there cannot be any order of prohibition by this Court restraining the Revenue Officials from performing their statutory provision. This Court finds no merits in this writ petition, and accordingly, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

msm
To

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

2.The District Munsif, Uthukuli

+1 CC to Mr.K. Govi Ganesan, Advocate sr 20074
+1 CC to The Government Pleader sr 20188.

W.P.No. 7844 of 2021
and
W.M.P.No.8371 of 2021

GSM(CO)
SP(13/07/2021)