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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.08.2021

CORAM :

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.32304 of 2012
and M.P.No.1 of 2012

G.Christopher Edison Sundar Singh

... Petitioner

-Vs-

1. The Additional District Executive Magistrate,
cum District Revenue Officer,
Coimbatore.

2. The Revenue Divisional Officer,
State Bank of India Road,
Coimbatore.

3.Govindaraj

4.B.Balabhuvaneswari

5.P.A.Janarthanan

... Respondents

Prayer :- 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 pertaining to ந.க.5082/12 இ1 dated 09.04.2012 from the first respondent and quash the same, which confirms the order dated 08.02.2012 in ப.மு.4308/2011 அ1 passed by the second respondent and direct the second respondent to restore the entries made in the registers maintained in this regard in respect of the properties under issues relating to the petitioner.

For Petitioner : Mr.S.Sabarish
For Mr.S.Kigston Jerold

For Respondents
For R1 & R2 : Mr.R.Neelakandan
Government Advocate.

For R3 to R5 : No appearance



ORDER

The Writ Petition has been filed to call for the records pertaining to ந.க.5082/12 இ1 dated 09.04.2012 from the first respondent and quash the same, which confirms the order dated 08.02.2012 in ப.மு.4308/2011 அ.1 passed by the second respondent and direct the second respondent to restore the entries made in the registers maintained in this regard in respect of the properties under issues relating to the petitioner.

2. According to the petitioner, he is an absolute owner of the properties comprised in Ka.Sa.No.62/1A, 632A1 64/2, 66/2, 65/2 and 65/3A, situated in Pattanam Village covering an extent of 7.76 acres of dry lands by virtue of sale deed Nos.757/2005 and 3464/2007 dated 14.02.2005 and 03.04.2007 respectively registered with Sub Registrar, Singanallur, Coimbatore District. The third respondent filed petition before the second respondent as against the petitioner and the respondents 4 & 5, claiming share in Ka.Sa.No.62/1, 65 and 66 situated in Pattanam Village, on the ground that the petitioner purchased the properties in an unlawful manner by committing an act of fraud and consequently prayed to take action as against the respondents 4 & 5 and the petitioner. After conducting enquiry, the second respondent passed an order that the sale deed executed by the respondents 4 & 5 is not valid and cancelled the document entries made in the register. Aggrieved by the same, the petitioner filed revision before the first respondent. The said revision petition also dismissed by an order dated 09.04.2012. Further the case of the petitioner is that, he is a bonafide purchaser for consideration and without knowing that in respect of the very same properties, already civil disputes are pending between the respondents 3 to 5 in S.A.No.1741 of 2001 and the petitioner got himself impleaded in the said Second Appeal pending before this Court. Therefore, he filed this present Writ Petition with the above said prayer.

3. Heard Mr.S.Sabarish, learned counsel appearing for the petitioner and Mr.R.Neelakandan, learned Government Advocate appearing for the respondents 1 & 2.

4. The disputed properties originally belonged to one Palanisamy Naidu and he executed Will in respect of the disputed properties in favour his second wife Ranganayaki ammal and his three sons born through her viz., Govindaraju, Jeganathan and Balasundaram. The said Govindaraju and the wife of Balasundaram are the respondents 3 & 4 herein. According to the Will, his second wife Ranganayaki ammal and his three sons are entitled to have $\frac{1}{4}$ share in the entire properties belonged to the said Palanisamy Naidu. While the said Ranganayaki ammal was alive,



the third son viz., Balasundaram viz., the husband of the fourth respondent died and the legal representatives of the said Balasundaram are entitled to have 1/4th share, as per the Will executed by the said Palanisamy Naidu. However, while the said Ranganayaki ammal was very much alive, as if there was a family arrangement in respect of her share and the share of the said Ranganayaki ammal are divided into all sons including the said Balasundaram. On the strength of the family arrangement as well as the Will executed by the said Palanisamy Naidu, the fourth respondent herein executed the sale deed in favour of the fifth respondent. In turn, the fifth respondent sold out the properties in favour of the petitioner herein. After coming to know about the above transactions, the third respondent i.e., one of the brother of the said Balasundaram viz., Govindaraju filed a petition before the second respondent challenging patta issued in favour of the purchaser viz., the petitioner herein.

5. On receipt of the same, the second respondent issued notice to all the parties and conducted enquiry and found that the said Ranganayaki ammal is very much alive and the fourth respondent has no title over the property and she ought not to have executed the sale deed in favour of the fifth respondent herein. Accordingly, the second respondent cancelled the revenue records in favour of the petitioner and declared that the sale deed executed in favour of the petitioner herein is not a valid one. In the mean while, the legal heirs of the said Palanisamy Naidu viz., the third respondent herein filed a suit which has come upto this Court in S.A.No.1741 of 2001 and is pending before this Court.

6. The learned Government Advocate appearing for the respondents 1 to 3 relied upon the judgment of the Hon'ble Division Bench of this Court reported in 2011 (5) CTC 94 in the case of Vishwas Footwear Company Ltd., vs. The District Collector, Kancheepuram, which reads as follows :-

"18. As far as the power of this Court to entertain a writ petition on disputed questions, we may refer to the following decisions of the Supreme Court in Arya Vysya Sabha and others v. The Commissioner of Hindu Charitable and Religious Institutions & Endowments, Hyderabad and others, (1976) 1 SCC 292, Rourkela Shramik Sangh v. Steel Authority of India Ltd., and another, (2003) 4 SCC 317 and Himmat Singh v. State of Haryana and others, (2006) 9 SCC 256. Therefore, when disputed questions are involved, this Court will not entertain the writ petition and



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adjudicate upon such dispute, as it is for the parties to approach the civil Court to decide the issue. However, in the event the order challenged in the writ petition is questioned on the ground of want of jurisdiction, certainly this Court would entertain the writ petition and particularly when such an order was passed when effective remedy is available before a civil Court for a person or persons who seek for cancellation of patta. As already pointed out, though the fourth respondent has filed appeal to the Revenue Divisional Officer seeking for cancellation of patta, in view of the fact that the Revenue Divisional Officer cannot go into the civil dispute, his order cancelling the patta by deciding the disputed question of title is without jurisdiction. In this context, we may refer to the proviso to section 14 of the Act which bars the suit. The proviso reads 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 of declaration of his right under Chapter VI of the Specific Relief Act and the entry in the patta pass book shall be amended in accordance with any such declaration. By that proviso, in the event any grievance is made by the fourth respondent over the patta granted to the appellant, he should have approached the civil Court for necessary orders. In the event the Revenue Divisional Officer had no jurisdiction to go into the disputed question of title and in spite of that fact if he decides the same, on the very same yardstick, the further remedy is only a revision under section 13 of the Act which is limited to calling for and examining the records of either the Tahsildar or the appellate authority by the District Revenue Officer and such revisional power cannot be equated to appellate power. Hence, the contention of the fourth respondent that the appellant has got an effective remedy of appeal and

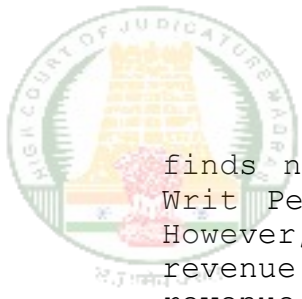


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without availing such remedy cannot file the writ petition, has no merit. Accordingly, the said contention is rejected.

19. Nevertheless, the core question involved in the writ petition is as to whether in the given facts and circumstances of the case, it could be entertained in the event patta has been granted in favour of a particular individual. On the strength of the title or possession, if any other person makes an application to the Revenue Divisional Officer for cancellation of that patta and in the event both the individuals claim title over the property, the Revenue Divisional Officer cannot adjudicate such disputed questions and accepting the case of the other person, he cannot cancel the patta. The right course to be adopted by the Revenue Divisional Officer in such case is only to refer the applicant who has come before him seeking for cancellation of patta to civil Court, especially when his claim is disputed by the individual who is holding the patta granted by the competent authority. In the event the Revenue Divisional Officer by exceeding his jurisdiction decides the question of title and cancels the patta, certainly the aggrieved person can approach this Court by way of a writ petition on the ground that the Revenue Divisional Officer was not competent to go into the title. The question of alternative remedy is not available to the aggrieved person as for the very same reason the District Collector also cannot go into the disputed question regarding the title or possession, as the case may be, in the event an appeal is filed."

7. That apart, when the order passed by the first respondent under Section 13 of the Tamil Nadu Patta Passbook Act, 1983, as per the provisions contemplated under Section 14 of the Tamil Nadu Patta Passbook Act, 1983, 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 for a declaration of his rights. Therefore, the first respondent has rightly rejected the same and this Court



finds no infirmity or illegality in the impugned order and the Writ Petition is devoid of merits and liable to be dismissed. However, the petitioner is at liberty to approach the concerned revenue authority for re-issuance of patta and mutation of revenue records in his favour, subject to the result of the Second Appeal in S.A.No.1741 of 2001 on the file of this Court.

8. With the above directions, this Writ Petition stands disposed of. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

rts

To

1. The Additional District Executive Magistrate,
cum District Revenue Officer,
Coimbatore.
2. The Revenue Divisional Officer,
State Bank of India Road,
Coimbatore.

+1CC to M/s.S.Kingston Jerold, Advocate, Sr.No.39391
+1CC to the Government Pleader, Sr.No.39445

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and M.P.No.1 of 2012

AK (CO)
K.RK. (01.09.2021)