



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.8591 of 2012

- 1 THIRU RAJKUMAR
- 2 TMT.JAYANTHI
- 3 THIRU T.S.T.KAZNAVI
- 4 TMT.YASMIN BEGAM
- 5 THIRU T.K.MOHD SAHI ... PETITIONERS

Vs

- 1 THE DISTRICT REVENUE OFFICER,
4TH FLOOR, CHENNAI COLLECTORATE,
SINGARAVELAR MALIGAI, NO.32, RAJAJI SALAI,
CHENNAI 1
- 2 THE TAHSILDAR,
MYLAPORE, TRIPLICANE TALUK, CHENNAI 28.
- 3 TMT.MARY SAROJA
- 4 THE MANAGING DIRECTOR OF
TAMIL NADU HOUSING BOARD,
CMDA MARKET COMPLEX,
KOYAMBEDU, CHENNAI.
- 5 THE COMMISSIONER,
GREATER CHENNAI CORPORATION,
RIPON BUILDINGS, CHENNAI -3. ...RESPONDENTS

(R4 & R5 SUO MOTU IMPEADED VIDE ORDER DT 06.10.2021 MADE IN WP.8591/2012 BY SMSJ)

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, praying to issue a writ of certiorari, calling for the records of the 1st respondent herein in R.C. No. J2/8387/10 and quash the order herein dt 1.3.2012 which was received by the petitioners only on 19.3.2012.



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For Petitioners : Mr.T.R.Rajagopalan, Sr. Counsel
for Mr.T.Susindran

For Respondents : Mr.K.M.D.Muhilan (for R1 & R2)
Govt. Advocate.
Mrs.R.K.Sudha (for R3)
Mr.R.Bharathkumar (for R4)
Mr.R.Gopinath (for R5)

ORDER

The order dated 01.03.2012, passed by the District Revenue Officer, Chennai, is under challenge in the present writ petition.

2. The learned senior counsel appearing on behalf of the petitioners mainly contended that the impugned order was passed pending disposal of W.P.No.22782/11 and the said writ petition was dismissed. Thus, the order impugned cannot be sustained at all. It is contended that the patta stood in favour of the petitioners and the said patta is to be restored for all purposes.

3. Undoubtedly, the dispute is between the petitioners and the contesting respondents in respect of the immovable property described in the writ petition. As far as the said civil disputes are concerned, the parties are bound to approach the competent civil Court of law for the purpose of redressal of their grievances.

4. A doubt was raised in respect of the classification of the subject property. This Court directed the official respondents to file a status report. Accordingly, a status report is filed on 25.10.2021 and based on the status report, the learned Government counsel appearing on behalf of the respondent states that a portion of the land belongs to Corporation and the remaining land belongs to private parties.

5. In respect of the Corporation land, the learned counsel for the Corporation made a submission that they have already addressed letters to the revenue authorities to collect particulars, for the purpose of measuring the land belongs to the corporation. It is for the authorities to initiate action in this regard by following the procedures as contemplated.

6. In respect of the Corporation land or government land, the authorities competent have to initiate action by following the procedures. However, in respect of the private lands, it is for the parties to approach the civil court for the purpose of crystalising their civil rights.



7. Contrarily, this Court cannot adjudicate such disputed facts in a writ proceedings under Article 226 of the Constitution of India. When parties claim patta based on ownership / title, and when doubt arises regarding the ownership / title, even the revenue authorities are incompetent to issue patta in name of either of the parties.

8. Section 3, sub section 1 of the Patta Passbook Act, 1983, enumerates as follows:

"3. Issue of patta pass book.- (1) The Tahsildar shall issue a patta pass book to every owner in respect of land owned by him, on an application made by him in this behalf. Any application received under this section shall be acknowledged by the Tahsildar or any other officer authorised by him in this behalf."

9. Tamil Nadu Patta Passbook Rules, 1987 rule 4 sub rule 4 enumerates as follows:

4. Procedure on receipt of application or information.:

(4) In the event of the Tahsildar being satisfied that a dispute concerning ownership of patta is already pending in a Court or issues are raised before him which impinge on personal laws or laws of succession and all the parties interested do not agree on the ownership in writing, he shall direct the concerned parties to obtain order on the ownership from a competent Civil Court having jurisdiction before changing the entries as already recorded and existing in the various revenue records.

10. Thus, the provisions of the Patta Passbook Act, 1983, is unambiguous when there is a dispute regarding ownership / title, between the parties, then the Thasildar cannot issue patta in favour of either of the parties and he must direct the parties to approach the competent civil Court for the purpose of resolving the issues and for the purpose of ascertaining the rights of the parties.

11. This being the scope of the Patta Passbook Act, the 1st respondent in this case ought to have invoked Rule 4(4) of the Patta Passbook Rules and directed the parties to approach the civil Court. Contrarily, he passed an order stating that the patta granted stood cancelled due to the pendency of the writ petition. Such a finding made in the impugned order is not in consonance with the provisions of the patta passbook act and the rules.

12. As per the status report filed by the 1st respondent, portion of the land belongs to the Corporation and remaining portion is owned by private parties. There are certain disputes



between the private parties claiming ownership. This being the factum placed before this Court, the parties are at liberty to approach the competent civil Court of law for the purpose of resolving the issues. As far as the Corporation land is concerned, the authorities competent are at liberty to initiate all appropriate actions by following the procedures as contemplated under law.

13. All the orders passed under the Patta Passbook Act, including the impugned order passed in the writ petition, are kept in abeyance till such time, the issues reached finality in respect of ownership / tile of the said property. After resolving the dispute, the either of the parties are at liberty to submit proper application for mutation or modification or grant of patta etc., under the provisions of the Act.

14. With this liberty, the writ petition stands disposed of. No Costs.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

ars/mka

To

- 1 THE DISTRICT REVENUE OFFICER,
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- 2 THE TAHSILDAR,
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KOYAMBEDU, CHENNAI.
- 4 THE COMMISSIONER,
GREATER CHENNAI CORPORATION,
RIPON BUILDINGS, CHENNAI -3.

+1cc to Mr.T.Susindran, Advocate, S.R.No.55749
+1cc to Mr.R.Bharathkumar, Advocate, S.R.No.55702
+1cc to Mr.R.Gopinath, Advocate, S.R.No.54911
+1cc to the Government Pleader, S.R.No.55905

W.P.No.8591 of 2012

NR(CO)
SB(23/11/2021)