



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 12.8.2021

CORAM

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.NO.28341 OF 2019

S.Ananthan

... Petitioner

.Vs.

1. The District Collector,
Chennai Collectorate,
Chennai.
2. The Revenue Divisional Officer,
Chennai Central Division,
Thirumangalam, Chennai-40.
3. The Tahsildar,
Taluk Office, Ambattur,
Chennai District.

4. V.N.Devadoss

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India seeking to issue a writ of mandamus directing the 2nd respondent to grant patta for the land in Survey No.236/2 in Padikuppam Village, Ambattur Taluk to the extent of 88 cents to the legal heirs of the deceased P.Manicka Naicker and his brother P.Kasi Naicker, P.Jayarama Naicker and P.Samu Naicker and to cancel the revenue record as Patta, Chitta and Adangal in favour of fourth respondent by considering petitioner's representation dated 27.7.2019.

For Petitioner : Mr.V.Ramamurthy
For Mr.S.Gunasekaran

For RR1 to 3 : Mr.Yogesh Kannadasan
Government Advocate

For R4 : Mr.V.Ayyapparaja



ORDER

Heard the learned counsel Mr.V.Ramamurthy appearing for the petitioner and the learned Government Advocate Mr.Yogesh Kannadasan, appearing for respondents 1 to 3 and Mr.V.Ayyapparaja, learned counsel for the fourth respondent.

2. Vociferous arguments have been made by the learned counsel for the petitioner and the learned counsel for the fourth respondent both asserting the title of their respective clients over the lands in question. The contention of the petitioner was that the lands were originally purchased by his grandfather way back in the year 1944 and various allegations had been raised against the fourth respondent and the petitioner questions the right and title of the fourth respondent over the said land and the right of the fourth respondent to continue to be in possession of the said lands.

3. The learned counsel for the fourth respondent, on the other hand, submitted that he has clear title for the lands and therefore, if at all there is any dispute, the proper remedy for the petitioner is to approach the civil court with competent jurisdiction to redress his grievance. He has relied on the judgment in C.Sabesan Chettiar v. The District Revenue Officer, Coimbatore District (2011 (5) CTC 241) and specific attention was drawn to para 29 wherein it had been held that entries in the patta pass book and certified copies of entries in the Patta Pass Book shall be presumed to be true and correct until the contrary is proved or a new entry is lawfully substituted therefor. It had been further held therein that the entries in the patta passbook issued by the Tahsildar as per Section 3 of the Patta Passbook Act, 1986 shall be, prima facie, evidence of title of the person, in whose name the Patta Pass Book has been issued. It has also been held therein that there is a rebuttable presumption in law with respect to the said entries.

4. Any dispute with respect to title or with respect to entry in the revenue records will have to be agitated only before the competent forum and not before this court. In this regard, the petitioner herein had given a representation dated 27.7.2019 to the first respondent/District Collector, Chennai and had also marked copies to the Revenue Divisional Officer, Chennai Central Division and to the Tahsildar, Ambattur.

5. It is contended by the learned counsel for the fourth respondent that to examine the contents of the representation, the proper forum would only be Civil Court and that the revenue officials do not have any authority to examine the title with respect to any property and adjudicate on the same.



6. I have given careful consideration to the facts stated. The writ petition has been filed in the nature of a mandamus seeking a direction to the second respondent viz., Revenue Divisional Officer to grant patta for the lands in S.No.236/2 in Padikuppam Village, Ambattur Taluk to an extent of 88 cents and to cancel the revenue records viz., patta, chitta and adangal granted in favour of the fourth respondent by considering the representation dated 27.7.2019. The representation only concerns about the entries in the revenue records and for consideration of grant of patta which again is a document granted by the revenue authorities and for cancellation of entries in the revenue records which again are under the control of revenue authorities.

7. It would, therefore only be appropriate that in the first instance, the revenue authorities examine the representation of the petitioner seeking grant of patta and to examine whether the revenue records viz., Patta, Chitta Adangal granted in favour of the fourth respondent has to be interfered with. This exercise has to be done without going into the issue of title but as a preliminary one and if the authority is of the opinion that examination of title to the property has to be done, then the said official should direct the parties to the appropriate forum viz., competent civil court. But, an exercise has to be undertaken by the revenue authorities in the first instance.

8. Therefore, I would direct the second respondent viz., the Revenue Divisional Officer to examine the representation given by the petitioner on 27.7.2019. It would only be appropriate that a fresh copy of the representation is made by the petitioner to the second respondent herein and on receipt of a fresh copy of the representation, the second respondent may inform the petitioner and also very particularly the fourth respondent, examine the records, examine whether he has necessary jurisdiction to grant the reliefs sought for in the representation and if otherwise pass appropriate orders indicating that the parties have to approach the civil court to determine their title. I would leave that decision to the wisdom of the second respondent herein and it would only be appropriate that the petitioner and fourth respondent putforth their rival contentions before the second respondent.

9. I would direct that a fresh copy of the representation be given by the petitioner within a period of three weeks from the date of receipt of copy of this order and thereafter, within a period of twelve weeks, the second respondent may pass necessary orders on the representation of the petitioner after hearing the petitioner and the fourth respondent and after considering the objections of the fourth respondent. With the



said observation, the writ petition is disposed of. No order as to costs.

WEB COPY

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ssk

To

1. The District Collector,
Chennai Collectorate,
Chennai.
2. The Revenue Divisional Officer,
Chennai Central Division,
Thirumangalam, Chennai-40.
3. The Tahsildar,
Taluk Office, Ambattur,
Chennai District.

+1cc to Mr.R.Bharathkumar, Advocate, S.R.No.40339
+1cc to Mr.S.Gunasekaran, Advocate, S.R.No.40093
+1cc to the Government Pleader, S.R.No.40770

W.P.NO.28341 OF 2019

SSV(CO)
PBS/07/09/2021