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THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2022

CORAM

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. No.17404 of 2003
and WPMP.No.21550 of 2003

1.Vee.G.Santhosh Kumar
2. Moin
(1 & 2 represented by their power agent G.Geetha)
3. Pushparaj
(Rep. By his power agent Rassia)
4. G.Geetha ... Petitioners

Vs

1.The Special Commissioner and
Commissioner for Land Administration,
Chepauk, Chennai ~ 600 005.
2.District Collector,
Karur District at Karur.
3.The Tahsildar
Karur Taluk,
Karur District. ... Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the first respondent relating to the passing of impugned order dated 13.05.2003 vide Ni.Mu.K.4/42262/2000 and to quash the same.

For Petitioners :Mr.R.Thiyagarajan
Senior Counsel
For Mr.K.S.V.Sethuraman
For Respondents :Mr.G.Nanmaran
Special Government Pleader

O R D E R

The order passed by the first respondent / Special Commissioner and Commissioner for Land Administration, cancelling the patta granted in favour of the petitioner is under challenge in the present writ petition.



2. The findings of the first respondent reveals that while granting patta, the genuinity of the claim of the petitioners and the landscape classification environment, as the subject property falls in the riverbeds of Amaravathy and Cauvery, were not considered. Therefore, the patta granted by the second respondent was cancelled.

3. Admittedly, the subject property falls in the riverbeds of Cauvery and Amaravathy. Therefore, the Government Authorities are expected to exercise caution while granting patta. All necessary documents, viz., survey inspection and revenue records must be verified for grant of patta. The petitioners claim title in respect of the subject property.

4. The learned counsel appearing on behalf of the petitioners states that the Civil Suit has already been instituted and the same is pending before the Competent Civil Court.

5. This Court is of the considered opinion that the patta is to be granted in accordance with the provisions of the Tamil Nadu Patta Pass Book Act, 1983. In the present case, the second respondent initially granted patta in favour of the petitioners and the first respondent cancelled the said patta on the ground that it was granted without conducting proper enquiry and without verifying the revenue records, environment and other aspects of the matter. Meanwhile, the petitioners also filed the Civil Suit.

6. Thus, the petitioners are bound to establish their title or ownership in respect of the subject property. Only if the title is established through documents and other evidences before the competent Civil Court of Law, the revenue authorities would be in a position to consider the case of the writ petitioners for grant of patta. If there is no dispute in respect of title, then alone the competent authorities are empowered to grant patta, otherwise the revenue authorities are incompetent to decide the title or ownership in respect of the immovable property.

7. Section 3(1) of the Tamil Nadu Patta Pass Book Act, 1983, enumerates that the Tahshildar 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. Thus, a person, who is submitting an application for grant of patta must be owner. If there is any dispute in respect of ownership or title, then the parties must be permitted to approach the competent Civil Court of Law for the purpose of establishing their right.



8. The said procedure also contemplate under Sub~Rule 4 of the Tamil Nadu Patta Pass Book Rules, 1983 states that in the event of 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 a ruling on ownership from the Civil Court having jurisdiction before changing the entries already recorded and existing in the various revenue records.

9. In the present case, the patta was granted in respect of the subject property, admittedly situated in the riverbeds of Cauvery and Amaravathy. Thus, all the revenue records are to be carefully scrutinised by the competent authority and only in the event of establishing the title by the petitioners before the competent Civil Court of Law, such grant of patta is to be considered and not otherwise.

10. This being the principles to be followed, the petitioners are at liberty to continue the contest of Civil Suit already instituted by them and after reaching finality, the petitioners are at liberty to submit a fresh application for effecting changes in the revenue records. In the event of filing any such application based on the Civil Court decree, the revenue authorities shall act by verifying the Government revenue records and other aspects of the matter in the manner known to law.

11. With these observations, all the writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1.Special Commissioner and
Commissioner for Land Administration,
Chepauk, Chennai ~ 600 005.

2.District Collector,
Karur District at Karur.



3.The Tahsildar
Karur Taluk,
Karur District.

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+2cc to M/s.T.Karunakaran, Advocate, S.R.No.12513

+1cc to the Government Pleader, S.R.No.12314

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RR(CO)
SB(05/04/2022)