

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.07.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.2412 of 2020

and

W.M.P.Nos.2812 of 2020 & 16392 of 2022

K.Shanmukhasundaram

...Petitioner

Vs.

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

2.The Sub Collector,
Pollachi.

3.V.S.Baba Ramesh

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records on the file of the 1st Respondent in Ne.Mu.20804/2018/C1 dated 31.10.2019 and to quash the same as illegal, Unconstitutional and Wholly without Jurisdiction and further direct the respondents 1 and 2 not to alter the records pending the civil litigation.

For Petitioner : Mr.V.Raghavachari

For Respondents-1 & 2 : Ms.Akila Rajendran
Government Advocate

For Respondent-3 : Mr.P.Saravana Sowmiyan

O R D E R

This petition has been filed challenging the order passed by the first respondent in Ne.Mu.20804/2018/C1 dated 31.10.2019 and for a consequential direction to the respondents 1 and 2 to not to alter the records pending the civil litigation.

2. The case of the petitioner is that the petitioner had entered into an agreement of sale with his vendor, namely, Subbayyan on 25.05.2000. While so, the third respondent herein had attempted to disturb his possession on 25.05.2010 claiming that he had entered into an agreement of sale with Subbayyan. Hence, the petitioner filed a suit in O.S.No.206 of 2010 on the file of Sub Court, Pollachi for specific performance of the sale agreement dated 25.05.2000 and for consequential permanent injunction, impleading the third respondent herein as sixth defendant in the suit. After adjudication, the said suit was dismissed on 16.02.2018. Against which, the petitioner had preferred an appeal in A.S.No.111 of 2018 on the file of I Additional District Court, Coimbatore and the same is pending for consideration. In the meanwhile, after dismissal of the suit, the third respondent has made an application before the Deputy Tahsildar, Pollachi for issuance of patta in his favour, however, the Deputy Tahsildar had rejected his application on the ground that the Appeal Suit filed by the petitioner is pending on the file of I Additional District Court, Coimbatore. Aggrieved by the same, the third respondent has preferred an appeal before the second respondent/Sub Collector seeking transfer of patta in his name. The second respondent, vide order dated 03.10.2018, set aside the order passed by the Deputy Tahsildar and granted patta in favour of the third respondent. Challenging the said order, the petitioner had preferred a revision before the first respondent on 23.10.2018. The said revision was dismissed by the first respondent vide his proceedings in Ne.Mu.20804/2018/E1 on 31.10.2019 confirming the order passed by the second respondent. Challenging the same, the present writ petition is filed.

3. Learned counsel for the petitioner submitted that when the Civil proceeding is already pending, the Revenue officials have no power to change/mutate the revenue records. Contrary to the same, the second respondent had mutated the revenue records in favour of the third respondent as a subsequent purchaser, which is not a sustainable one and contrary to the provisions of the Patta Passbook Act 1983. Accordingly, he prayed for allowing this writ petition.

4. The learned counsel further submitted that this Court may issue a direction to the I Additional District Court, Coimbatore to decide the Appeal Suit independently without being influenced by any observation made by the second respondent as well as the first respondent herein.

5. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the official respondents as well as the learned counsel appearing for the third respondent.

6. The facts in the present case are not in dispute. Admittedly, the petitioner had filed a suit in O.S.No.206 of 2010 on the file of Sub Court, Pollachi for specific performance of the sale agreement dated 25.05.2000 and for consequential permanent injunction against the third respondent herein. The said suit was dismissed on 16.02.2018, against which, the petitioner had preferred an appeal in A.S.No.111 of 2018 on the file of I Additional District Court, Coimbatore and the same is pending for consideration. In the meanwhile, the third respondent had made an application before the Deputy Tahsildar, Pollachi for issuance of patta in his favour, however, the Deputy Tahsildar had rejected his application on the ground that the Appeal Suit is pending on the file of I Additional District Court, Coimbatore. Aggrieved by the same, the third respondent had preferred an appeal before the second respondent/Sub Collector seeking transfer of patta in his name. The second respondent vide order dated 03.10.2018, set aside the order passed by the Deputy Tahsildar and granted patta in favour of the third respondent. Challenging the said order, the petitioner had preferred a revision before the first respondent on 23.10.2018. The said revision was dismissed by the first respondent vide his proceedings in Ne.Mu.20804/2018/E1 on 31.10.2019 confirming the order passed by the second respondent. On perusal of records, it is seen that the suit was ended in favour of the third respondent and the Appellate Authority as well as the Revisional Authority have granted patta in favour of the third respondent. In the absence of any restraint order being passed and the Appeal Suit is pending before the competent Civil Court, this Court is not inclined to interfere with the order passed by the first respondent herein. However, this Court makes it clear that the I Additional District Court, Coimbatore shall take up the issue on its own merits and adjudicate the dispute without in any way being influenced by any observation made by the Appellate Authority/second respondent as well as the Revisional Authority/first respondent. Further, if at all the petitioner is succeed in the above Appeal Suit, liberty is granted to him to file an appropriate application before the concerned authority for issuance of patta.

8. With the above observations, this writ petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

- 1.The District Revenue Officer-cum-
Additional Executive Magistrate,
Coimbatore.
- 2.The Sub Collector,
Pollachi.

Copy to
The 1st Additional District Judge
1st Additional District Court
Coimbatore

- +1 CC to Mr.W. Camyles Gandhi, Advocate sr 44404
- +1 CC to Mr.V.Raghavachari, Advocate sr 44740.
- +1 CC to The Government Pleader sr 45199.

W.P.No.2412 of 2020
and
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AD(CO)
SP(27/07/2022)