



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2022

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.6224 of 2022 and
W.M.P.No.6284 of 2022

A.Ramamurthy

... Petitioner

vs.

1. The Special Tahsildar,
Urban Land Tax Scheme,
Pallavaram,
Chennai - 600 044.

2. Deepak Raj

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records culmination in the proceedings of the first respondent under ref.no.Na.Ka.No.A/216/2021 dated 21/12/2021 purporting to be Patta Cancellation proceeding initiated on the representation dated 16.11.2021 submitted by Deepak Raj, the second respondent herein, quash the same.

For Petitioner : Mr.B.Harikrishnan

For Respondents: Mr.R.P.Murugan Raja
Government Advocate

ORDER

This Writ Petition has been filed seeking for issuance of a Writ of Certiorari to call for records culminating the proceedings of the first respondent under Reference Number in Na.Ka.No.A/216/2021 dated 21/12/2021, purporting to be Patta Cancellation proceeding initiated on the representation dated 16.11.2021 submitted by the second respondent herein and quash the same.



2. The case of the petitioner is that the petitioner purchased the property in S.No.283/9 of an extent of 17 cents situated in said Pallavaram Village from one Tamil Selvi, vide sale deed on the file of the Sub Registrar Office, Pallavaram and patta was obtained in favour of him in respect of the subject property. One AVP Deepak Raj, the second respondent claiming to have purchased a portion of the above said property of an extent of 17 cents, from one Kanniammal and 41 others, vide sale deed dated 14.09.2007, attempted to interfere with petitioner's property. While so, the petitioner filed a Suit in O.S.No.72 & 73 of 2011 before the Subordinate Court, Tambaram to declare the Sale Deed dated 14.09.2007 is null and void and the same is pending. On 16.11.2021, the second respondent filed a representation to the first respondent, who initiated proceedings for cancellation of patta, previously issued to the petitioner. Later, on 02.02.2022 and 02.03.2022, the petitioner made representations to the first respondent to drop the proceedings and the same was not considered by the first respondent. For quashment of the proceedings initiated by the first respondent, dated 16.11.2021, the petitioner has come up with the present Writ Petition seeking the aforesaid relief.

3. The learned counsel for the petitioner submits that as per Rule 4(4) of Tamil Nadu Patta Passbook Rules, 1987, if any Suit is pending in a Court, the Tahsildar has no power to decide the title between the parties and defer to entertain application till the conclusion of the Suit. He further submits that, on instructions, he issued legal notice to the first respondent on 02.02.2022 stating that the suit is pending between the parties and requested to restrain the first respondent from deciding the issue. Even then, he issued notice to the petitioner dated 21.12.2021 which is not sustainable. Hence, he prays this Court to direct the first respondent to drop the proceedings initiated against the petitioner and quash the same.

4. The learned Government Advocate appearing on behalf of the first respondent submits that the notice issued by the first respondent, dated 21.12.2021, is only an enquiry notice. Hence, he prays this Court to direct the petitioner to file objection petition before the first respondent and the first respondent may pass appropriate orders, on merits and in accordance with law.

5. Heard the learned counsel appearing on either side and perused the materials placed before this Court.



6. The facts in the present case are not in dispute. Admittedly, when the title Suit is pending between the parties, the Tahsildar has no power to decide the ownership of the property. However, the notice issued by the first respondent dated 21.12.2021 is only an enquiry notice. This Court directs the petitioner to file objection petition before the first respondent within a period of two weeks from the date of receipt of a copy of this order. If any such objection petition is filed before the first respondent, he is directed to defer the proceedings till the disposal of the Suit.

7. With the above direction, this Writ Petition is disposed of. No costs. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CCC)

// True Copy //

Sub Assistant Registrar

rap/sk

To

The Special Tahsildar,
Urban Land Tax Scheme,
Pallavaram,
Chennai - 600 044.

+lcc to Mr.B.Hari Krishnan, Advocate SR.No.18418
+lcc to the Government Pleader, SR.No.18764

W.P.No.6224 of 2022

PMK(CO)
CB(21/04/2022)