

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2022

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.NO.4549 OF 2018

AND

W.M.P.NO.5601 OF 2018

D.Selvakumar

... Petitioner

-vs-

1. District Revenue Officer
Kanchipuram Collectorate
Kanchipuram District.
2. The Revenue Divisional Officer
Tambaram
Kanchipuram District.
3. The Thasildar
Shozhinganallur Taluk
Kanchipuram District.
4. Manoharan
5. Porchelvi
6. Niraichelvi

... Respondents

Prayer:- Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records pertaining the impugned order issued by the First Respondent through his proceedings in Na.Ka. No. 818/2013/No.3 dated 21.12.2017 as illegal and quash the same and confirm the Patta issued by the Third Respondent bearing Patta No. 5166 regarding the property bearing Survey No. 68/1A, an extent of 1/6th share of the total extent of 1.41.5 Hectares in Neelankarai Village, Shozhinganallur Taluk, Kancheepuram District.

For Petitioner : Ms.K.Varsha
For Mr.G.Ranganathan

For Respondents : Mr.G.Krishnaraja
(For R1 to R3)
Additional Government Pleader

M/s.S.Thirusaravanan (For R4)

Mr.Y.Jyothish Chander (For R5)

Mr.B.Damodaran (For R6)

O R D E R

This petition has been filed seeking to quash the impugned order issued by the First Respondent through his proceedings in Na.Ka. No. 818/2013/No.3 dated 21.12.2017 and confirm the Patta issued by the Third Respondent bearing Patta No. 5166 regarding the property bearing Survey No. 68/1A, an extent of 1/6th share of the total extent of 1.41.5 Hectares in Neelankarai Village, Shozhingallur Taluk, Kancheepuram District.

2. The case of the petitioner is that one Ramachandiran is the original owner of the property measuring to an extent of 1/6th share in total extent of 1.41.5 Hectares comprised in Survey No.68/1A Neelankarai Village, Kancheepuram District and the said Ramachandran had two wives. The respondents 5 & 6 are the daughters of the first wife viz., Ranganayagi. The said Ranganayagi passed away in the year 1956. Thereafter, the said Ramachandran married one Saroja, who is the mother of the petitioner and the 4th respondent. During the lifetime, the said Ramachandran had executed a registered Will in the year 1974 in favour of his daughters. After demise of the said Ramachandran, there was a dispute with regard to the share of the subject property between the legal heirs. In the meanwhile, the petitioner and the 4th respondent's names were included as joint pattadarar in the revenue records in the subject property. Objecting the same, the respondents 5 & 6 made a representation before the Revenue Divisional Officer (RDO) to delete the name of the petitioner and the 4th respondent. The RDO has also removed the name in the revenue records. Challenging the same, the petitioner filed an appeal before the District Revenue Officer (DRO) and the DRO rejected claim made by the petitioner and confirmed the order passed by the RDO. Challenging the same, the present writ petition has been filed seeking appropriate remedy.

3. The learned counsel for the petitioner submitted that the 5th respondent has already filed a suit in O.S.No.3169/1997 on the file of the Principal District Munsif, Alandur for injunction against the 4th respondent herein and the same was dismissed in the year 2010. As against the said decree, an appeal was preferred by the 5th respondent in AS.No.54 of 2011, which was re-numbered as A.S.No.262/2021 on the file of the Additional District Munsif, Alandur. In the meanwhile, the 6th respondent has also filed a suit in O.S.No.400/2006 and the same was decreed in her favour. As against the said decree, the 4th respondent preferred the appeal in A.S.No.16 of 2021 Sub court, Alandur and both the appeals are pending. Therefore, this Court may grant liberty that after disposal of the appeals, the respective succeeding parties to file appropriate petition for issuance of fresh patta within the stipulated time as fixed by this Court.

4. The learned counsel for the 6th respondent submitted that the 6th respondent has filed a suit against the 4th respondent and the same was allowed. Against the decree, the 4th respondent filed appeal and the same is pending. However, the orders passed by the respondents 1 & 2 is perfectly valid, which cannot be interfered by this Court.

5. The learned Additional Government Pleader have no serious objection for the contention raised by the learned counsel for the petitioners.

6. Heard, the learned counsel for the petitioners as well as the learned counsel appearing for the respondents and perused the materials available on record.

7. The facts of the case are not in dispute. There is a dispute with regard to the aforesaid property between the petitioners and the private respondents. When there is appeal pending between the parties with regard to the subject property, this Court cannot interfere with the impugned orders.

8. Considering the facts and circumstances of the case and the limited relief sought for by the petitioner, this Court, without interfering with the impugned order, directs the learned Judge to decide the appeals on merits and in accordance with law as expeditiously as possible. After disposal of the appeals, the succeeding party shall make a fresh application/petition to the concerned respondents along with the judgment passed by the lower appellate Court. After receipt of such application, the respondents shall consider the same and pass appropriate orders, after affording opportunity to the necessary parties, on merits and in accordance with law.

9. With the above directions, this Writ Petition is disposed of. No costs. However, liberty is granted to the petitioner to work out his remedy in the manner known to law. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

Rli

To

1. The District Munsif,
Alandur.
2. The District Revenue Officer
Kanchipuram Collectorate
Kanchipuram District.
3. The Revenue Divisional Officer
Tambaram
Kanchipuram District.
4. The Thasildar
Shozhinganallur Taluk
Kanchipuram District.

+1cc to Mr.G.Ranganathan, Advocate, S.R.No.41065

+1cc to Mr.B.Damodaran, Advocate, S.R.No.40432

+1cc to Mr.Y.Jyothish Chander, Advocate, S.R.No.40431

+1cc to the Government Pleader, S.R.No.41394

W.P.No.4549 of 2018

AJB(CO)
RLP(26/07/2022)