



W.P.No.32449 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2022

CORAM:

THE HONOURABLE MR. JUSTICE **M.DHANDAPANI**

W.P.No.32449 of 2016
and
W.M.P.No.28138 of 2016

R.Bhaskaran

... Petitioner

Vs.

1. The Revenue Divisional Officer,
Tambaram Taluk Office,
Tambaram,
Kancheepuram District.

2. The Tahsildar,
Kundrathur,
Sriperumbudur Taluk Office,
Kancheepuram District.

3. V.Valli

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records relating to impugned notices dated 11.09.2015, 16.08.2016 and 02.09.2016 bearing Na.Ka.No.1165/2016/A issued by the first respondent herein and quash the same.



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For Petitioner : Mr.R.Murali
For R1 & R2 : Mr.U.Bharanidharan
Additional Government Pleader
For R3 : M/s.T.Sundaranathan

ORDER

This Writ Petition has been filed seeking issuance of a Writ of Certiorari to calling for the records relating to impugned notices dated 11.09.2015, 16.08.2016 and 02.09.2016 bearing Na.Ka.No.1165/2016/A issued by the first respondent herein and quash the same.

2. The case of the petitioner is that, originally a residential plot bearing No.167, measuring an extent of 2400 sq.ft., situated at Chikkarayapuram Village, Sriperumbudur Taluk, Kancheepuram District was owned and possessed by one Mrs.Amirthammal. After the demise of said Amirthammal, the aforesaid property devolved upon her daughter Mrs. Parvathy. Thereafter, several alienations were made in respect of the aforesaid property, pursuant to the aforesaid alienations, by virtue of sale deed, the petitioner is in absolute possession and enjoyment of the aforesaid property without any hindrance. Further, the petitioner had constructed a house and residing along with his family members in the



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said property. According to the petitioner, the petitioner had obtained Patta, vide patta bearing No.2553 from the Revenue authorities and other Revenue Records were also mutated in his name. While so, the petitioner was served with notice dated 11.09.2015 from the second respondent stating that the third respondent/Valli has filed an application to cancel the Patta granted in favour of the petitioner and to mutate Patta in her name. Thereafter, the second respondent called upon the petitioner for the enquiry on 23.09.2015 along with all the relevant documents, but the second respondent neither conducted any enquiry nor the third respondent appeared for the same. Again, on 16.08.2016 and 02.09.2016, the first respondent issued impugned notices, calling upon the petitioner to appear for the enquiry on 23.08.2016 and 20.09.2016 respectively along with all the relevant documents. Challenging the said impugned notices, the petitioner had filed the present Writ Petition.

3. The learned counsel for the petitioner submitted that, once patta issued as per the terms of Section 3 of the Tamil Nadu Patta Passbook Act, 1983 (in short, the Act), for the cancellation of Patta lies only before the second respondent/Tahsildar in terms of Section 10 of the



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Act. However, contrary to the said provision, the third respondent/private respondent made application before the first respondent/Revenue Divisional Officer for cancellation of Patta, which is not sustainable.

4. Per contra, the learned Additional Government Pleader appearing for the respondents 1 and 2 submits that, for the very same property dispute, the third respondent filed a Suit in O.S.No.347 of 2016 on the file of District Munsif Court, Sriperumbudur, in which, the petitioner is also a party in the said suit and the same is pending. When the Civil Suit is pending, as per the Rule 4(4) of the Act, the Revenue Divisional Officer has no power to decide the issue. Accordingly, he prayed for passing appropriate orders.

5. Considering the facts and circumstance of the case. As rightly submitted by the learned counsel for the petitioner, once the Patta issued in terms of Section 3 of the Act, the cancellation of Patta lies only before the second respondent/Tahsildar. Instead of filing application before the second respondent/Tahsildar, the third respondent/private respondent's made application before the first respondent/Revenue Divisional Officer is



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not sustainable. Further, for the very same property dispute, the Civil Suit is pending before the Civil Court in O.S.No.347 of 2016, when such being the case, the first respondent/Revenue Divisional Officer has no power to decide the issue between the petitioner and the third respondent, and the same is barred under Rule 4(4) of the Act. In view of the above, the impugned notices issued by the first respondent is liable to be set-aside.

6. Accordingly, this Writ Petition is allowed with the aforesaid direction with liberty to the petitioner as well as the third respondent to canvass all those points before the Civil Court, where the suit is pending. The Civil Court is directed to decide the issue without being influenced by any of the observations made in this order. No costs. Consequently, the connected miscellaneous petition is closed.

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Speaking Order : Yes/ No

Internet: Yes/ No

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To

1. The Revenue Divisional Officer,
Tambaram Taluk Office,
Tambaram,
Kancheepuram District.
2. The Tahsildar,
Kundrathur,
Sriperumbudur Taluk Office,
Kancheepuram District.



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M.DHANDAPANI, J.
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