IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2022

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

W.P.No.34129 & 34130 of 2016
and
WMP.Nos.29452 & 29454 of 2016

C.Padmaraja ...Petitioner in W.P.No.34129 of 2016
C.Rama Chandrasekar ...Petitioner in W.P.No.34130 of 2016

Vs.

1. The District Collector,
   Tiruvallur District.

2. The District Revenue Officer,
   Tiruvallur District at Tiruvallur.

3. The Revenue Divisional Officer,
   Tiruvallur.

4. The Tahsildar,
   Tiruvallur District.

5. J.Moorthy

6. J.Vijayakumar

7. Amsabai

8. Savithiri

9. Ganesan

10. Sathiyavathi

11. J.Mahesh ...Respondents in both W.Ps.

Common Prayer: Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records relating to the proceedings of the District Revenue Officer, Tiruvallur District and made in Na.Ka.No.6077/2013/B3, dated 16.12.2013 the second respondent herein and quash the same.

In Both W.Ps.

For Petitioners : Mr.N.Damodaran

For Respondents : Mr.T.K.Saravanan, GA, for R1 to R4
: No Appearance, for R5 to R11

O R D E R

Since the issue involved in both the Writ petitions are similar in nature, they are disposed of by way of this common order.

2. The petitioners have filed these Writ petitions seeking quashment of the proceedings of the 2nd respondent dated 16.12.2013 bearing Na.Ka.No.6077/2013/B3.

3. The case of the petitioners is that the property comprised in S.No.404/1, measuring an extent of 1.20 acres, situated at No.229, Mappedu Village, Tiruvallur Taluk, originally belonged to one Arulaiyaa,

and he sold the same in favour of one Sanjeevi RoyaPillai for a valid sale consideration. Thereafter, the sons of the said Sanjeevi Roya Pillai namely, Venu Pillai and Jayaraman Pillai, who is none other than the father of the respondents 5 to 11 herein, partitioned their ancestral properties among themselves and were in absolute possession and enjoyment of their respective shares. While so, the said Jayaraman Pillai along with his minor sons viz., Murthi, Vijayakumar, Ganesan and Mahesh conveyed the properties comprised in S.Nos.419/1B, 419/3, 404/1, 368/1B, 419/2 and 404/3, totally measuring an extent of 3.03 Acres to and in favour of one Kesavan, vide registered sale deed dated 20.07.1970 bearing Doc.No.1743 of 1970. Thereafter, the said Kesavan settled the above said properties in favour of his sister namely Sarojini Ammal, from whom, one, Ranganathan, purchased the properties comprised in S.Nos.404/1 & 404/3, measuring an extent of 1.53 acres along with various other properties from various third party vendors.

4. Pursuant to the said purchase, the said Ranganathan along with his wife namely, Hemavathy, laid out the lands owned by them, after getting necessary approval from the Director of Town and Country Planning in

Approval No.643 of 97 dated nil.10.1997 and subsequently, executed General Power of Attorney in favour of one Balamurugan, vide Document No.210 of 2006 dated 08.12.2006. In the above said lay out, the petitioners herein have purchased the plot numbers 5, 6, 7 & 8 and 9, 10, 11, 12 & 13 respectively under Patta No.591. While such being the case, the petitioners received the letter from an Advocate namely, Malathi, which is purported to be a caveat petition lodged at the instance of the respondents 5 to 11. Upon verification, the petitioners came to know about the proceedings of the second respondent dated 16.12.2013 bearing Na.Ka.No.6077/2013/B3, restoring the patta in respect of the disputed property to the name of the said Jayaraman Pillai, pursuant to the false claim made by the respondents 5 to 11 before the revenue authorities, claiming title over the subject property comprised in S.No.404/1B. Aggrieved by the same, the petitioners made a representation dated 13.01.2016 before the 1st respondent, which evoked no response. Hence, challenging the said proceedings of the 2nd respondent dated 16.12.2013, the present Writ petitions have been filed.

5. Learned counsel for the petitioners submitted that, the petitioners herein have purchased their respective property comprised in the above said

approved layout which was developed by the said Ranganathan and his wife Hemavathy, after obtaining necessary approval in Approval No.643 of 97 dated nil.10.1997, through one Balamurugan, who is none other than the General Power of Attorney of the said Ranganathan and Hemavathy. Pursuant to the said purchase, the petitioners have mutated the revenue records in respect of their respective property in their favour and are in absolute possession and enjoyment of the same. Further, it is pertinent to note that the said Ranganathan had purchased the disputed property from the mother and paternal uncle of the private respondents in the year 1984; while so, after a lapse of about 3 decades, the 9th respondent made a false claim before the revenue authorities, claiming title over the subject property comprised in S.No.404/1B, pursuant to which, the 2nd respondent had mechanically passed the present impugned order, cancelling the patta issued in favour of the petitioners' vendors and restored the same in favour of the said Jayaraman Pillai, without affording an opportunity to the petitioners who are the owners of the disputed property, which is not sustainable. He further submitted that, though the private respondents made a claim before the revenue officials claiming title over the disputed property, however, it is pertinent to note that, the issue involved in the present case pertains to disputed questions of facts and is purely a civil dispute between the petitioners and the private respondents and the revenue officials has no authority to entertain the same and the aggrieved party has approach the competent Civil Court by filing appropriate petition to ventilate their grievances. He furthermore submitted that, the issue involved in these Writ petitions has already been decided by the Division Bench of this Court in the case of ***Vishwas Footwear Company Ltd. Vs. The District Collector and Ors.*** in W.A.No.1275 of 2006 reported in ***[2011 5 CTC 94]***, wherein the Hon'ble Division bench of this Court held that, the person who approached the revenue officials for cancellation of patta should be directed to approach the civil Court to establish the title before seeking patta by cancelling the patta granted in favour of opposite party, if there is any dispute with regard to the title. Hence, he prayed for appropriate orders.

6. On the above said contention, heard learned Government Advocate appearing for the official respondents and perused the materials available on record.

7. Though these Writ petitions have been filed in the year 2016 and

necessary notices were served on the private respondents, when the matters were taken up for hearing today, no one appeared on behalf of the private respondents. Considering the long pendency of these Writ petitions, this Court is inclined to pass the following orders.

8. Admittedly, as per Patta Passbook Act, 1983, any entry in the patta pass book relating to patta already issued by the Tahsildar under section 3, shall be modified only by the Tahsildar under Section 10 of the Patta Passbook Act. Therefore, the entertainment of the application made by the 2nd respondent, who is the revisional authority, cannot be permitted to, as he is not the competent authority to cancel or modify the entries made in the patta pass book and modification/cancellation of patta lies only before the Tahsildar in terms of Section 10 of the Patta Passbook Act.

9. It is to be pointed out, at the risk of repetition, that the 2nd respondent has no power to make any cancellation/modification with regard to patta. Equally so, the Tahsildar, who is the competent authority to make any cancellation/modification in the patta pass book with regard to the Patta granted, has no authority to decide on the title to the property. Such being

the case, the proper course open for the authority, viz., the 2nd respondent, is to have relegated the private respondents to go before the Tahsildar and in respect of any dispute with regard to the title, if raised, the Tahsildar ought to refer the parties to approach the Civil Court.

10. As rightly pointed out by the learned counsel for the petitioners, the issue in the present case is squarely covered by the decision of the Division Bench of this Court in ***Vishwas Footwear Company Ltd. Vs. The District Collector and Ors.*** in W.A.No.1275 of 2006 reported in ***[2011 5 CTC 94]*** , wherein it has been held as under :-

> *"17. The question as to whether the revenue authorities be it the Tahsildar exercising power under Section 3 or under Section 5 or under Section 10 or the Revenue Divisional Officer exercising power under Section 12, can consider only a prima facie case as to the entitlement of a person or persons for issuance of patta. In the event such officers encounter a dispute which could be resolved only by a competent civil Court, they would not have jurisdiction to enter into such civil dispute for adjudication. To this extent, the judgments in Kuppuswami Nainar's case followed in Chockkappan'c case may be relied upon. The learned Judge in the order under appeal has also relied upon those judgments and we are in agreement with the same."*

11. In view of the above, this Court is of the view that, the order impugned in these Writ petitions is liable to be interfered with. Accordingly, the impugned order dated 16.12.2013 passed by the 2nd respondent is set aside. However, liberty is granted to the private respondents to approach the competent Civil Court by way of filing appropriate suit to establish their title and subject to the outcome of the suit, the parties are at liberty to work out their remedy for issuance of patta in the manner known to law.

12. With the above observations and directions, these Writ petitions are allowed. No costs. Consequently, connected Miscellaneous petitions are closed.

28.09.2022

skt

Speaking Order : Yes/ No
Index : Yes/ No

To

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   Tiruvallur District.

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   Tiruvallur.

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M.DHANDAPANI, J.

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