



Writ Petition No.30645 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: **28.11.2022**

C O R A M

THE HONOURABLE Mr.JUSTICE N. SATHISH KUMAR

Writ Petition No.30645 of 2017 &

WMP.Nos.33552 & 33553 of 2017

Nallathambi

... Petitioner

Vs

1. The District Revenue Officer,
Perambalur District, Perambalur.

2. The Tahsildhar,
Kunnam Taluk, Perambalur District.

3. Periyasamy

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records relating to the proceedings of the first respondent dated 26.09.2017 made in Na.Ka.AA2/15186/2015 and to quash the same.

For petitioner ... Mr.C.Prakasam

For respondents ... Mr.P.Sathish, Addl. Govt. Pleader – R1 & R2

No appearance – R3



ORDER

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This Writ Petition has been filed to quash the proceedings of the first respondent dated 26.09.2017 made in Na.Ka.AA2/15186/2015 directing the second respondent to mutate the revenue records in the name of the third respondent.

2. It is the main contention of the learned counsel for the petitioner that he has already filed a civil suit in O.S.No.205 of 2017 before the District Munsif Court, Perambalur for declaration and permanent injunction and subsequently, the suit has been transferred to District Munsif-cum-Judicial Magistrate, Kunnam. The petitioner has also obtained interim Order in I.A.No.1662 of 2017 and it is still continuing. During the pendency of the above suit, despite the Order of injunction, the first respondent transferred the patta in the name of the third respondent. Hence, the same has been challenged in this Writ Petition.

3. The counter has been filed by the respondent stating that a copy of the plaint in O.S.No.205 of 2017 has been produced and since it has not been attested by an advocate, the same is not relied upon. The learned Additional



Government Pleader submitted that as the suit is pending no transfer of patta could be done under Sub clause 4 of Rule 4 of Patta Pass Book Rules 1987.

4. Admittedly, even in the counter, the respondent has clearly stated that pendency of the suit is brought to his notice. Despite the same, he has transferred the patta mainly on the ground that copy of the plaint has not been attested. In such view of the matter, as the suit is pending, no transfer of patta could be effected as per Sub Clause 4 of Rule 4 of Pass Book Rules 1987.

5. The respondent has admitted in his counter that the pendency of the suit has been brought to the notice of the respondent. Despite the same he has transferred the patta mainly on the ground that the copy of the plaint has not been attested. In such view of the matter, as the suit is pending, any transfer of patta will not take effect as the suit is pending and the same will be subject to the result of the suit. The Civil Court shall decide the suit independently without referring to the proceedings of the first respondent made during the pendency of the suit.

6. With the above directions, this Writ Petition is disposed of.



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Consequently, connected miscellaneous petitions are closed. No costs.

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Index : Yes / No

Internet: Yes

Speaking/non speaking order

vrc

To

1. The District Revenue Officer,
Perambalur District, Perambalur.
2. The Tahsildhar,
Kunnam Taluk, Perambalur District.



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N. SATHISH KUMAR, J

VRC

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