



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **22.03.2022**

CORAM:

THE HONOURABLE **MR.JUSTICE ABDUL QUDDHOSE**

W.P.[MD]No.5042 of 2022

and

W.M.P.[MD]No.4125 of 2022

WEB COPY

St.Mary's Boys Hr.Sec.School,
Represented through its Correspondent,
Millerpuram, Thoothukudi - 628 008.

... Petitioner

/Vs./

1.The Principal Commissioner and
Director of Survey and Settlement,
Survey and Settlement,
Survey House, 3rd Floor,
Chepauk, Chennai - 600 005.

2.The Special Tahsildar,
Town Survey and Settlement,
Thoothukudi.

3.M.Janci
4.M.Gladwin
5.M.Brighit
6.M.J.M.Jali Jerald
7.M.Terance

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned enquiry notice in Na.Ka.A1/2041/19 dated 21.02.2022, on the file of the 1st respondent herein and to quash the same and consequently direct the 1st respondent not to issue any further enquiry notice.

For Petitioner : Ms.Jessi Jeeva Priya
For R1 and R2 : Mr.B.Saravanan
Additional Government Pleader

ORDER

This writ petition has been filed challenging the enquiry notice issued by the first respondent calling upon the petitioner to come for enquiry with regard to the application submitted by the rival claimants of the very same property seeking for issuance of patta in their names.

2.The contention of the petitioner in this writ petition is that since a civil suit is pending between the very same parties, no patta can be granted in favour of the rival claimants and therefore,



the application submitted by them before the authorities concerned seeking for issuance of patta is not maintainable.

3. Admittedly, the impugned notice was only an enquiry notice calling upon the petitioner to come for enquiry on the application submitted by the rival claimants seeking for issuance of patta in their names for the subject property and no final orders have been passed by the official respondents till date.

4. The petitioner has raised the following grounds for challenging the enquiry notice:

(a) The Impugned enquiry notice issued by the first respondent is illegal and has been issued by total non-application of mind under Section 3 of the Tami Nadu Patta Passbook Act, 1983;

(b) The first respondent ought to have seen whether the title of the respondents 3 to 7 is clear in respect of T.S No.15,16 and 17 and whether there is any dispute or rival claim;

(c) The first respondent failed to consider that in respect of title to the property, it can be decided only by the competent civil court;

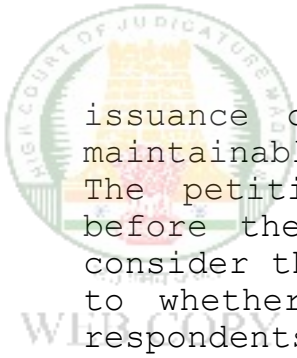
(d) The first respondent failed to see that a civil suit in O.S.No.86 of 2019, on the file of principal Munsif, Tuticorin has been filed by the petitioner against the respondents 4,6 and 7 for the reliefs of declaration, recovery of possession and mesne profit;

(e) The first respondent ought to have seen that, pending civil suit, he cannot hold any enquiry in respect of the title of the property or otherwise and also need not deal with any such application in respect of grant of patta under Section 3 of the Tamil Nadu Patta Passbook Act, 1983 or modification required under Section 10 of the Tamil Nadu Patta Passbook Act, 1983;

(f) The first respondent ought to have followed the instructions of the Inspector General of Registration in Ref.No.K3/27160/2008 dated 13.03.2018, which states that if any party has brought to the notice of the concerned authority about the pending suit over the disputed land with the objection supported by a declaration that a civil suit has been filed and is accompanied by an authenticated copy of the plaint, the concerned authority should not pass any orders.

5. Admittedly, no orders have been passed on the application submitted by the private respondents seeking for issuance of patta in their names for the subject property. The petitioner has only been called upon to come for enquiry in the said application. Therefore, this Court is of the considered view that this writ petition has been filed prematurely.

6. The grounds raised by the petitioner in this writ petition as extracted supra will have to be considered by the first respondent in the final orders to be passed by him. It is for the first respondent to take a call as to whether the application seeking for



issuance of patta in the names of the respondents 3 to 7 is maintainable or not, in view of the contention of the petitioner. The petitioner has also submitted an explanation on 11.01.2022 before the first respondent. The first respondent will have to consider the same on merits and in accordance with law and decide as to whether the application seeking for patta sought for by the respondents 3 to 7 can be entertained or not.

7.In the aforesaid terms, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1.The Principal Commissioner and
Director of Survey and Settlement,
Survey and Settlement,
Survey House, 3rd Floor,
Chepauk, Chennai - 600 005.

2.The Special Tahsildar,
Town Survey and Settlement,
Thoothukudi.

+1 CC to M/s.P.JESSI JEEVA PRIYA, Advocate (SR-13644[F]
dated 23/03/2022)

+1 CC to M/s.SPL GP (SR-13883[F] dated 23/03/2022)

order made in

W.P. [MD]No.5042 of 2022

Dated:

22.03.2022

KG(CO)

GC(31.03.2022) 3P 5C