IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2023

CORAM

THE HONOURABLE Mr.JUSTICE S.M.SUBRAMANIAM

W.P.No.17985 of 2023
and
W.M.P.No.17142 of 2023

N.N.Shanmugasundaram ... Petitioner

Vs

1.The Revenue Divisional Officer,
Coimbatore South,
Coimbatore.

2.N.P.Sivakumar ... Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Prohibition, prohibiting the 1st respondent herein from proceedings with the enquiry in Na.Ka.No.1661/2023/A2 dated 30.03.2023 pending disposal of the above Appeal Suit in A.S.CFR.No.3956 of 2020 on the file of Principal Sub Court, Ciombatore.

For Petitioner : Mr.S.Sriram

For Respondents : Mr.S.Ravichandran
Additional Government Pleader
for R1

ORDER

The enquiry notice dated 30.03.2023 is under challenge mainly on the ground that the petitioner preferred an Appeal Suit in A.S.CFR.No.3956 of 2020 challenging the judgment and decree passed in O.S.No.750 of 2017.

2.The learned counsel for the petitioner made a submission that I.A.No.1 of 2020 to condone the delay of 105 days in filing the appeal suit is pending on the file of Sub Court, Coimbatore. Since the respondents/ defendants have not filed counter affidavit in the interlocutory application, the condone delay petition is kept pending for the past about three years. Without filing counter affidavit in the interlocutory application, the respondents have approached the Revenue Divisional Officer to transfer the patta in their name based on the decree passed by the Civil Court.

3. No doubt, under Section 14 of the Patta Pass Book Act, the revenue authorities are empowered to transfer patta or grant patta based on the Civil Court decree. However, in the present case, the party has already preferred an appeal suit in the year 2020 itself and the same is pending in the interlocutory application stage to condone the delay and the respondents

have approached the authorities even without filing counter affidavit in the interlocutory application. Such an approach cannot be appreciated by this Court. The parties have to approach the revenue authorities under the Patta Pass Book Act only after reaching finality in the civil proceedings. The petitioner has filed appeal suit in the year 2020 itself. After a lapse of three years, the respondents have submitted an application for transfer of patta before the Revenue Divisional Officer. The Revenue Divisional Officer under the provisions of the Patta Pass Book Act ought to have relegated the parties to dispose of the appeal suit which is now pending before the Sub Court, instead the authority issued a notice for conducting enquiry. Notice at this stage would cause prejudice to the petitioner in the event of transferring the patta in the name of the respondents. After the disposal of the appeal suit, again the parties have to approach the authorities for making necessary changes. This is exactly the reason why the Act contemplates pendency of civil suit is a bar for entertaining the application for making changes in the revenue records. The parties are at liberty to establish their respective cases before the Civil Court in the appeal suit already filed by the writ petitioner. Only after the disposal of the civil litigations, the parties may approach the revenue authorities for effecting changes in the revenue records. Thus, the

1st respondent shall pass appropriate orders relegating the parties to resolve their issues in the appeal suit already instituted and keep all the revenue proceedings in abeyance, till such time the civil litigations reach finality between the parties.

4. With the above observations, the Writ Petition stands allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

20.06.2023

Index : Yes/ No

Speaking order : Yes /No

Sgl

To

The Revenue Divisional Officer,
Coimbatore South,
Coimbatore.

S.M.SUBRAMANIAM, J.

Sgl

W.P.No.17985 of 2023

20.06.2023