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W.P.No.17369 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.17369 of 2023

S.Vasu

... Petitioner

Vs.

1. The District Collector,
Collectorate,
Thiruvallur – 602 001.
2. District Revenue Officer,
Collectorate,
Thiruvallur – 602 001.
3. The Revenue Divisional Officer,
Ponneri,
Railway Station Road, NGO Nagar Extn,
Ponneri – 601 204,
Thiruvallur District.
4. The Tahsildar, Gummidipoondi,
Taluk Office, Kayalarmedu,
Gummidipoondi,
Chennai – 601 201.
5. M/s. Hindustan Petroleum Corporation Limited,
Petro Bhavan, No-82, TTK Road,
Alwarpet, Chennai – 600 018.

6. E.Jayaraman

... Respondents



Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent herein in Na.Ka.No.1522/2022/A2 dated 13.04.2022 and quash the same and to direct the 2nd respondent to hear the matter afresh and consequently direct the respondents 1 to 4 to issue patta in the name of Petitioner's applications dated 11.02.2019, 22.03.2021.

For Petitioner : Mr. S.Haja Mohideen Gisthi

For Respondents : Mr. T.Arunkumar,
Additional Government Pleader
(R1 to R4)

ORDER

The order dated 13.04.2022 passed by the 2nd respondent / District Revenue Officer, Thiruvallur, rejecting the appeal filed by the petitioner for grant of patta is under challenge in the present writ petition.

2. The petitioner states that he is the absolute owner of the subject property described in the writ proceedings. The petitioner is a retired bank employee and a senior citizen.

3. The grievances of the writ petitioner is that the contesting 6th respondent is attempting to grab the property belonging to the petitioner by registering forged documents. The petitioner filed writ petition in this



regard at the first instance in W.P.No.8711 of 2020 and this Court passed orders on 01.07.2020, directing the authorities to conduct an enquiry and pass appropriate orders on merits and in accordance with law in respect of the representation submitted by the writ petitioner.

4. The learned counsel for the petitioner reiterated that the District Registrar under the Registration Act, 1908, had conducted an enquiry and found that the documents challenged by the petitioner is a forged document and based on the orders of the District Registrar, the writ petitioner has filed another writ petition in W.P.No.14015 of 2020 and a final order has been passed by this Court on 06.10.2022, directing the 3rd and 4th respondents therein to make appropriate entries in the Encumbrance Certificate with respect of the subject property within a period of 4 weeks.

5. Pursuant to the directions, entries were also made. However, the petitioner filed another writ petition in W.P.No.19903 of 2021, seeking the relief of direction to consider and take action as required on the representation dated 19.07.2021. This Court passed an order directing the authorities to conduct an enquiry after affording opportunity to the parties and pass appropriate orders.



6. Orders were passed in respect of the patta proceedings initiated by the original authority and the appellate order has been passed by the District Revenue Officer, Thiruvallur. The said appellate order is under challenge in the present writ petition.

7. The facts elaborately narrated by the petitioner deserve no merit consideration as the High Court cannot conduct a roving enquiry in respect of the title or ownership of the subject property, so also the authorities competent either under the Registration Act or under the Tamil Nadu Patta Passbook Act, 1983 are empowered to conduct adjudication of disputing issues regarding the title, ownership or possession etc., The scope of the administrative actions under the provisions of the Registration Act and the Tamil Nadu Patta Passbook Act, 1983 cannot be expanded for the purpose of adjudication of title, ownership or other civil rights. All such rights are to be adjudicated and determined by the competent Civil Court of law and certainly not by the competent authorities under the special enactments. The authorities under the Registration Act or the Tamil Nadu Patta Passbook Act, 1983 are conducting summary proceedings. Therefore, any attempt by any person to confirm the title or ownership through such authorities are



impermissible and the authorities are expected not to venture into such adjudications raised between the parties.

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8. The power of cancellation conferred under the Registration Act is for a limited purpose. If any document has been presented and registered fraudulently or through impersonation, then alone such documents can be cancelled by following the summary proceedings. During the course of conducting summary proceedings, the District Registrar is not empowered to adjudicate the title dispute between the parties. Fraud or impersonation must be apparent on record. Once the fraud and impersonation is identified apparently, then alone the authorities have to record the reasons and cancel the document and in all other cases regarding adjudication of various documents and evidences, the authorities are bound to relegate the parties to Civil Court for trial. Therefore, a distinction is to be drawn regarding the administrative powers conferred under the Registration Act and the Tamilnadu Patta Passbook Act, 1983 and in dealing with the fraudulent activities of the persons. Therefore, an aggrieved person is empowered to prosecute the offenders. Thus, the administrative action, criminal prosecution and establishing civil rights are distinguishable and a person aggrieved from and out of any fraudulent activity or impersonation, can



institute prosecution against such persons under the criminal law, he can file a Civil Suit to establish his right and administrative action can be initiated by approaching the competent authority. These Threefold actions available to an aggrieved person is to be exercised within the sphere of the statute and the rules in force and therefore, there cannot be any overlapping in exercise of powers by any one of the authorities.

9. Thus, the scope of cancellation of a registered document by the District Registrar is confined only with reference to the provisions of the Registration Act, wherein summary proceedings are permissible. Mere cancellation of any registered document by the District Registrar on the ground of fraud or impersonation would not preclude a person from establishing his civil right before the Civil Court of law. Therefore, cancellation of document by the District Registrar is the final relief for a person. It may be used as a corroborative document for the purpose of establishing the civil rights.

10. The above position has been reiterated by the Apex Court of India in the case of *Asset Reconstruction Co. (India) Ltd. -vs- S.P. Velayutham* in [(2022) 8 SCC 210] in para 58 of the judgment, which reads as follows:-



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“ 58. It must be noted that when a High Court, in exercise of its jurisdiction under Article 226 finds that there was utter failure on the part of the registering authority to stick to the mandate of law, the Court merely cancels the act of registration, but does not declare the very execution of the document to be null and void. A declaration that a document is null and void, is exclusively within the domain of the civil court, but it does not mean that the High Court cannot examine the question whether or not the registering authority performed his statutory duties in the manner prescribed by law.”

11. Therefore, the threefold action available to an aggrieved person under the relevant statutes of criminal law and civil law are to be exercised independently. Mere cancellation of a registered document would not confer any title on the person. It is only an administrative action to cancel the document or to cancel the revenue records and mere cancellation of a registered document or grant of patta would not confer any right on the parties to claim title or ownership. Ultimately, the competent Civil Court of law is the final authority to declare a document as null and void or to declare the title or ownership regarding the properties.



12. In the present case, the order impugned itself reveals that the parties have already instituted O.S.No.46 of 2022 on file of the Principal Sub-Court, Ponneri, Thiruvallur District. The District Revenue Officer has stated that during the pendency of the Suit, the revenue authorities are incompetent to issue any patta, cancel the patta or otherwise. The Tamilnadu Passbook Act, 1987 also enumerates that in the event of institution of Civil Suits, revenue authorities have to wait till such time the disputes are resolved between the parties through the competent Court of law. Only after passing of the decree, either of the parties has to approach the revenue authorities for effecting necessary changes in the revenue records. This being the principles, the petitioner is at liberty to defend the suit already instituted in O.S.No.46 of 2022 and only after reaching finality in the civil proceedings, the parties have to approach the competent authority under the Registration Act or under the Tamilnadu Passbook Act or otherwise.

13. The learned counsel for the petitioner made a submission that it is a collusive Suit instituted with some false allegations. That being the stand, it is left open to the parties to file an Interlocutory Application for rejection of plaint or otherwise in the manner contemplated under the Code of Civil Procedure.



14. With these observations, the writ petition in W.P.No.17369 of

2023 stands dismissed.

13.06.2023

skr

Index : Yes

Speaking order

Neutral Citation : Yes

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