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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.24072 of 2018
and WMP.No.28056 of 2018

1.Mrs.I.Isabella
2. Mr.I.Edmund Sagayaraj
3. Mrs.I.Asha Sahayarani
4. Mrs.I.Hema Sagayarani ... Petitioners

Vs.

1. The Collector,
Singaravelar Maaligai,
62, Rajaji Salai, Chennai – 600 001.

2. The Revenue Divisional Officer &
Sub-Divisional Magistrate,
Egmore Division, Chennai – 600 031.

3. The Revenue Divisional Officer &
Sub-Divisional Magistrate,
Guindy Division, Chennai – 600 031.

4. The Thasildhar,
Velachery, Chennai – 42.

5. S.Chidambaranathan ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records relating to the

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impugned order dated 25.07.2018 bearing reference No.A2/1914/2017 issued by the 2nd respondent and quash the same.

For Petitioner : Mr.Rajnish Pathiyil

For Respondents : Mr.T.Arunkumar
Additional Government Pleader [R1 to R4]

Mr.Abdul Whfiq
for M/s.Pass Associates [R5]

ORDER

The impugned order dated 25.07.2018 passed by the Revenue Divisional Officer, Egmore Division is under challenge in the present writ petition.

2. Originally, the patta was granted in the name of the husband of the first petitioner/father of the second to fourth petitioners. The petitioners inherited the subject property from his father. The fifth respondent filed an appeal before the Revenue Divisional Officer, Egmore Division to cancel the patta. The Revenue Divisional Officer conducted an elaborated enquiry by affording an opportunity to all the parties and pass the impugned order vide proceedings dated 25.07.2018 stating that the request of the fifth respondent may be entertained after finalization of the Court cases, which were pending during the relevant point of time.

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3. Under the provisions of the Tamil Nadu Patta Pass Book Act, 1983, in the event of pendency of the civil cases before the competent court, the authorities may not be in a position to consider the applications to grant patta, cancel the patta or to mutate the revenue records.

4. The Revenue Divisional Officer has filed a counter, wherein he has categorically stated that the contention of the writ petitioners that they are in uninterrupted possession of the property for the past 43 years is not correct. There are several encroachments on the said land and that court cases are pending between the said A.G.L.Irudhayaraj i.e., father of the writ petitioners 2 to 4 and the encroachers. There is a rival claim between Mr.C.Elumalai, E.Senthilkumar, E.Sridhar, Rusthim Singh, P.M.R.Sarkar, K.Ganesh Sing and A.G.L.Irudhayaraj (Father of the writ petitioners 2 to 4) and the said cases are also pending on the file of the VI Assistant City Civil Court, Chennai in O.S.No.12065 of 2010. Further, several other cases are also pending between the father of the writ petitioners 2 to 4 and the encroachers in respect of the subject land.

5. The learned counsel for the petitioners brought to the notice of this Court that some civil litigations have come to an end. If so, and the

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petitioners are in possession of any judgment or decree passed by the Civil Court or otherwise, he is at liberty to submit an application or prefer a revision before the District Revenue Officer for passing appropriate orders on merits and in accordance with law. The petitioners are at liberty to submit a fresh application for grant of patta if the civil disputes between the parties reach finality.

6. Such complex nature of civil disputes cannot be adjudicated in a writ proceedings under Article 226 of the Constitution of India. The parties are to be relegated to approach the Civil Court for the purpose of resolving the civil disputes by establishing their rights based on the documents and the evidences available on records and by impleading all the necessary and appropriate parties. The Revenue Divisional Officer in the impugned order has categorically stated that the civil disputes were existing during the relevant point of time between the parties and the application for cancellation of patta is to be considered only after reaching finality in respect of the civil disputes. The decision arrived by the Revenue Divisional Officer is in consonance with the provisions of the Tamil Nadu Patta Pass Book Act, 1983. Thus, the petitioners are at liberty to resolve the issues by approaching

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the Civil Court and after reaching finality, they are at liberty to file an application under the Tamil Nadu Patta Pass Book Act, 1983 for necessary relief.

7. In this regard, the first respondent District Collector is directed to verify the classification of the subject land and if any discrepancies are found, then appropriate actions are to be initiated by the competent authorities.

With these observations, this writ petition stands disposed of. No costs. Connected miscellaneous petition is closed.

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Index : Yes
Speaking order
Neutral Citation : Yes

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S.M.SUBRAMANIAM, J.

mp

To

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