IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18-07-2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP No.14621 of 2017
And
WMP Nos.15851 to 15853 of 2017

1.V.V.V.Nachiappan, B.E., IRSE (Retd.) (Deceased)
2.N.Velappan
3.N.N.Narayanan
4.N.Devarajan
5.A.Nachammai
6.S.Valliammai
[Petitioners 2 to 6 substituted as LRs of the deceased first petitioner vide order of Court dated 30.06.2023 made in WMP No.24952 of 2022 in WP 14621 of 2017] ... Petitioners

Vs.

1.The District Collector,
Chennai District,
Rajaji Salai,
Chennai-600 001.

2.The Revenue Divisional Officer,
Egmore Division,
Egmore,

Chennai.

3.The Tahsildar,
Mambalam Guindy Taluk,
Ashok Nagar,
Chennai-600 083.

4.S.N.Padmanathan

5.P.M.Elavarasan ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 18.05.2017 Ref.No.A2/536/2017 passed by the second respondent and quash the same and consequently direct the respondent Authorities to grant a joint patta in favour of the first petitioner and his children viz., N.Velappan, N.Narayanan and N.Devarajan, Mrs.A.Nachammal and Mrs.S.Valliammai in respect of the property viz., all that plot of land measuring 4000 sq.ft., bearing Plot N.27, in Kumaran Colony Layout, forming part of Survey No.158, T.S.No.19, Saligramam Village, Vadapalani, Chennai-600 026, Mambalam Taluk (formerly Egmore-Nungambakkam Taluk) and to initiate appropriate disciplinary proceedings against the second respondent.

For Petitioners : Mr.S.Thanka Sivan

For Respondents-1 to 3 : Mr.G.Krishna Raja,
Additional Government Pleader.

For Respondent-4 : Not Ready in Notice

For Respondent-5 : Mr.Swarnam J.Rajagopalan

O R D E R

The order passed by the second respondent-Revenue Divisional Officer in proceedings dated 18.05.2017, is under challenge in the present writ petition.

2. The petitioner states that he is the absolute owner of the land measuring 4000 sq.ft., bearing Plot N.27, Kumaran Colony Layout, Vadapalani forming part of Survey No.158, Saligramam Village, Mambalam Taluk. The first petitioner states that respondents 4 and 5 interefered with the possession and enjoyment of the first petitioner in the said property. Despite the fact that patta stands in the name of the first petitioner. In other words, the Tahsildar issued patta in the name of the first petitioner and the first petitioner holds the title documents.

3. The respondents 4 and 5 are not possessing any such documents to establish their title and illegally interfered with the possession

and enjoyment of the first petitioner in the property and therefore, the petitioner filed criminal complaint and subsequently filed criminal OP No.14039 of 2012 and the FIR registered against the respondents 4 and 5 is pending.

4. The respondents 4 and 5 filed civil suit in C.S.No.377 of 2017 for a declaration of title and the said civil suit was dismissed with the cost and the learned counsel appearing on behalf of the fifth respondent brought to the notice of this Court that the respondents 4 and 5 filed Original Side Appeal in OSA No.299 of 2018, which is pending before the Division Bench of this Court.

5. Admittedly, an appeal in OSA No.299 of 2018 is pending. The question arises whether the Revenue Authorities can effect changes in the revenue records during the pendency of the civil suit before the Competent Court of Law. Section 14 of the Tamil Nadu Patta Pass Book Act, 1983 indicates bar of suits and the proviso clause stipulates that "if any person is aggrieved as to any right of which he is in possession, by an entry made in the patta pass book under this Act, he may institute a suit for a

declaration of his rights under Chapter VI of the Specific Relief Act, 1963 (Central Act 47 of 1963); and the entry in the patta pass book shall be amended in accordance with any such declaration".

6. If at all, the Revenue Authorities exercised their powers under the Patta Pass Book Act, during the pendency of the civil suit before the Competent Court of Law, the same would cause prejudice to either of the parties. Therefore, the pendency of civil suit before the Competent Court of Law is to be construed as a bar for exercising the powers by the Revenue Authorities under the provisions of the Patta Pass Book Act. The revenue records would not confer any title over the property.

7. More-so, the Revenue Authorities are incompetent to adjudicate the disputed facts between the parties under the provisions of the Patta Pass Book Act. Section 3 of the Act stipulates the issue of patta pass book.

8. Accordingly, the Tahsildar shall issue the patta pass book to every owner in respect of the land owned by him on an application made in

this behalf. Therefore, there cannot be any dispute in respect of the ownership or title. In respect of undisputed properties, the Tahsildar is competent to issue patta. If there is any dispute, then he is incompetent to decide the disputed issues of civil nature.

9. Therefore, in the event of pendency of the civil suit, the Tahsildar may not be in a position to issue patta or adjudicate the disputed issues between the parties. In the event of issuing any patta during the pendency of the civil suit, any one of the party may take undue advantage before Court of Law.

10. The parties claiming title or ownership is expected to prove the same independently based on the documents and evidences available on records. Therefore, the patta originally granted before the Tahsildar prior to the institution of the suit cannot be taken into consideration.

11. When the matter has gone before the Revenue Divisional Officer b that time, the respondents 4 and 5 instituted civil suit and therefore, the Revenue Divisional Officer has rightly passed the impugned

order by stating that the application is to be considered only after disposal of the civil suit pending before the Competent Court of Law. The civil suit admittedly was dismissed by the High Court and the fifth respondent preferred an appeal in OSA No.299 of 2018.

12. The principles in this regard has been considered by the Division Bench of this Court in the case of **Vishwas Footwear Company Ltd vs. District Collector, Kancheepuram [(2011) 5 CTC 94]**, wherein in paragraph-17, it has been observed as under:-

> *"17. The question as to whether the Revenue Authorities be it the Tahsildar exercising power under Section 3 or under Section 5 or under Section 10 or the Revenue Divisional Officer exercising power under Section 12, can consider only a prima facie case as to the entitlement of a person or persons for issuance of Patta. In the event such officers encounter a dispute which could be resolved only by a competent Civil Court, they would not have jurisdiction to enter into such Civil dispute for adjudication. To this extent, the judgments in Kuppuswami Nainar's case followed*

in Chockkappan's case may be relied upon. The learned Judge in the order under Appeal has also relied upon those judgments and we are in agreement with the same.”

13. That being the factum, either of the parties are at liberty either to approach the Revenue Authorities only after disposal of the civil litigations pending before the Competent Court of Law.

14. With the above liberty, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are also dismissed.

18-07-2023

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
Svn

To

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S.M.SUBRAMANIAM, J.

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