BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.19787 of 2013
and M.P.(MD)No.2 of 2013

G.Ravi
Director,
Sri Parameswari Spinning Mills (P) Ltd.,
Tuticorin Main Road,
Pandalkudi,
Velayuthapuram,
Virudhunagar District. ... Petitioner

versus

1. The District Revenue Officer,
   Virudhunagar,
   Virudhunagar District.

2. The Revenue Divisional Officer,
   Aruppukottai,
   Virudhunagar District.

3. T.A.S.Alagarsamy ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorari, to call for the records of the 2nd respondent's proceedings in Mu.Mu.A(1)-6898-07 dated 10.02.2009 as confirmed by the 1st respondent in his proceeding Ni.Mu.P.2/13363/2009 dated 09.10.2013 and quash the same as illegal.

For Petitioner	:	Mr.A.Sivaji
For R1 and R2	:	Mr.G.V.Vairam Santhosh, Additional Govt. Pleader
For R3	:	Ms.Vijayakumari Natarajan

ORDER

This writ petition is filed as against the order of the second respondent/the Revenue Divisional Officer, Aruppukottai, Virudhunagar District, in Mu.Mu.A(1)-6898-07 dated 10.02.2009 and the order passed by the first respondent/the District Revenue Officer, Virudhunagar, in Ni.Mu.P.2/13363/2009 dated 09.10.2013.

2. The grievance of the petitioner is that the Tahsildar, after considering the documents placed by him, has transferred the patta in his name. However, on the appeal filed by the third respondent, the second respondent/the Revenue Divisional Officer, Aruppukottai, by

his proceedings in Mu.Mu.A(1)-6898-07 dated 10.02.2009, cancelled the patta granted by the Tahsildar. Therefore, he has preferred a revision before the first respondent/the District Revenue Officer, Virudhunagar and pending the revision, the third respondent has approached the District Munsif Court, Aurppukottai and filed a suit in O.S.No.223/2009 seeking declaration on the subject property. Without considering the pendency of the suit, the first respondent/the District Revenue Officer, Virudhunagar, has proceeded with the revision and passed an order dated 09.10.2013, confirming the order of cancellation of patta. Aggrieved over that, the petitioner has preferred this writ petition. In support of his contention, he has also relied upon a Judgment of this Court in ***Vishwas Footwear Company Ltd., A-2 Third Phase, Guindy Industrial Estate, Chennai – 600 032, rep. by Director, V.Ravi, vs. The District Collector, Kancheepuram and others***, wherein, this Court has observed as follows:

> "19. Nevertheless, the core question involved in the Writ Petition is as to whether in the given facts and circumstances of the case, it could be entertained in the

event Patta has been granted in favour of a particular individual. On the strength of the title or possession, if any other person makes an Application to the Revenue Divisional Officer for cancellation of that Patta and in the event both the individuals claim title over the property, the Revenue Divisional Officer cannot adjudicate such disputed questions and accepting the case of the other person, he cannot cancel the Patta. The right course to be adopted by the Revenue Divisional Officer in such case is only to refer the Applicant who has come before him seeking for cancellation of Patta to Civil Court, especially when his claim is disputed by the individual who is holding the Patta granted by the Competent Authority. In the event the Revenue Divisional Officer by exceeding his jurisdiction decides the question of title and cancels the Patta, certainly the aggrieved person can approach this Court by way of a Writ Petition on the ground that the Revenue Divisional Officer was not competent to go into the title. The question of alternative remedy is not available to the aggrieved person as for the very same reason the District Collector also cannot go into the disputed question regarding the title or possession, as the case may be, in the event an Appeal is filed.

20. .... In our opinion, the dispute being one of Civil nature, the title of either the Appellant-Company or the said Alamelu Ammal cannot be gone into by the Revenue Divisional Officer. The Revenue Divisional Officer having gone into such title has not only decided to cancel the Patta in favour of the Appellant-Company, but also directed the registration of Patta in favour of Alamelu Ammal. Both the above acts are without jurisdiction. In the event the act of the Revenue Divisional Officer is without jurisdiction, the writ petition is maintainable. ..... "

3. The learned Additional Government Pleader appearing for the first and second respondents submits that though the petitioner had been given an opportunity to produce documents regarding title, he has not chosen to produce any document before the second respondent and therefore, the second respondent/the Revenue Divisional Officer, Aruppukottai, by his proceedings dated 10.02.2009, has corrected the

mistake committed by the Tahsildar. But, the petitioner, instead of approaching the Civil Court, has preferred the revision before the first respondent/the District Revenue Officer, Virudhunagar and therefore, the first respondent/the District Revenue Officer, Virudhunagar, has to take a decision on the revision petition filed by the petitioner. The first respondent/the District Revenue Officer, Virudhunagar, after appreciating all the materials, has rightly confirmed the order of the second respondent/the Revenue Divisional Officer, Aruppukottai. Therefore, there is no reason to interfere with the order of the first respondent/District Revenue Officer, Virudhunagar.

4. This Court considered the rival submissions made and perused the materials placed on record.

5. This writ petition is filed as against the orders of the Revenue Divisional Officer, Aruppukottai and the District Revenue Officer, Virudhunagar.

6. As per Rule 4(4) of the Tamil Nadu Patta Pass Book Rules, 1987, if there is rival claim between two parties, the Revenue Authorities are not supposed to take any decision on the title. In all fairness, the Revenue Authorities ought to have directed the parties to approach the concerned Civil Court.

7. In this case, on the appeal preferred by the third respondent, the second respondent/the Revenue Divisional Officer, Aruppukottai, by his proceedings dated 10.02.2009, cancelled the patta granted by the Tahsildar. Therefore, the petitioner has preferred the revision before the first respondent/the District Revenue Officer, Virudhunagar. The first respondent/the District Revenue Officer, Virudhunagar, by his proceedings dated 09.10.2013 dismissed the revision petition filed by the petitioner, confirming the order of cancellation of patta. In the meantime, the 3rd respondent has also filed a suit in O.S.No.223 of 2009 before the District Munsif Court, Aruppukottai, seeking relief of

declaration on the subject property.

8. It is very unfortunate that the suit filed in the year 2009 is kept pending without any progress. It is submitted that in the suit, trial has not yet commenced.

9. In view of the fact that the issue between the parties is with regard to the title over the property, this Court, under Article 226 of the Constitution of India, cannot decide the said issue.

10. Since the third respondent has already filed the suit in O.S.No.223 of 2009 and the same is pending before the District Munsif Court, Aruppukottai, the parties shall work out their remedies before the District Munsif Court, Aruppukkottai, in O.S.No.223 of 2009.

11. Accordingly, the writ petition is disposed of. However, considering that the suit is of the year 2009, the learned District

Munsif, Aruppukkottai, is directed to conclude the suit proceedings in O.S.No.223 of 2009, within a period of four months from the date of receipt of a copy of this order. The trial Court is expected to take a decision, based on the materials placed by the parties, without being influenced by the observations of the Revenue Divisional Officer, Aruppukottai and District Revenue Officer, Virudhunagar. No costs. Consequently, connected miscellaneous petition is closed.

08.03.2023

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NCC : Yes / No.
Index : Yes / No.
Internet: Yes / No.

Note: The Registry is directed to mark a copy of this order to the District Munsif Court, Aruppukottai.

B.PUGALENDHI, J.

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To

1. The District Revenue Officer,
   Virudhunagar,
   Virudhunagar District.

2. The Revenue Divisional Officer,
   Aruppukottai,
   Virudhunagar District.

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