BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.06.2023

CORAM

THE HONOURABLE MR.JUSTICE **C.V.KARTHIKEYAN**

W.P.(MD)No.5354 of 2022
and
W.M.P.(MD)No.4359 of 2022

Tulsidas K.Patel ... Petitioner

vs.

1.The District Collector, Trichy.

2.The District Revenue Officer,
Tiruchirappalli, Trichy District.

3.The Revenue Divisional Officer,
Tiruchirappalli, Trichy District.

4.The Tahsildar,
Thiruverumbur, Trichy.

5.The Zonal Deputy Tahsildar,
Thiruvembur, Trichy.

6.The Village Administrative Officer,
Elanthaipatti Village, Trichy.

7.Natarajan
8.Hemalatha ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the second respondent in his proceedings, dated 18.03.2022 in Na.Ka.A6/32932/2021 and set set aside the same as illegal and consequently, to direct the authorities to relegate the parties to approach the competent Court.

For Petitioner	:Mr.R.Gandhi Senior Counsel for Mr.J.Karthikeyan
For R1 to R6	:Mr.J.Ashok Additional Government Pleader
For R7 and R8	:Ms.AL.Gandhimathi Senior Counsel for Mr.C.Mahadevan

*****

O R D E R

This Writ Petition has been filed by Thulsidas K.Patel, son of Kanthilal L.Patel, in the nature of a Certiorarified Mandamus to call for the records relating to an order passed by the second respondent/District Revenue Officer, Trichy in proceedings, dated 18.03.2022 in Na.Ka.No.A6/32932/2021 and to set aside the same.

2.Heard Mr.R.Gandhi, learned Senior Counsel assisted by Mr.J.Karthikeyan, learned Counsel for the petitioner, Mr.J.Ashok, learned Additional Government Pleader for the first to sixth respondents, Ms.AL.Gandhimathi, learned Senior Counsel assisted by Mr.C.Mahadevan, learned Counsel for the for seventh and eighth respondents.

3.In the affidavit filed in support of this Writ Petition, it had been stated that the petitioner had purchased the property at S.No.27/2C at Elanthaipatti Village, Thiruverumbur Taluk and Trichy District measuring 1 acre and 4 cents on 09.04.2015 from one Mallika Patel by a registered sale deed registered as Doc.No.1786/2015 in the office of the Sub Registrar, Thiruverumbur. He also claimed that he is in possession and the revenue records have been mutated in his name.

4.It had been further stated that much earlier in the year 2013, on a petition filed by the seventh and eighth respondents, Natarajan, son of Kandhasamy and Hemalatha wife of Natarajan, to cancel the patta, the issue was decided in favour of Mallika Patel, the vendor of the petitioner.

5.It had been further stated that after seven further years, the said seventh and eighth respondents had filed a complaint before the District

Registrar and before the Anti Land Grabbing Cell with the alleged help of a politician, whose name had not been specified in the affidavit, alleging that they are the owners of the property and that the documents had been registered through impersonation. It had also been stated that the District Registrar had passed an order on 20.05.2020.

6.A Civil suit had also been filed in O.S.No.222 of 2021 on the file of the District Munsif Court at Trichy. It had been further stated that the Tahsildar and the Sub Registrar were also defendants in the said suit. It had also been stated that one Veeraiyan, had also filed O.S.No.732 of 2020 before the Subordinate Court, Trichy questioning the order passed by the District Registrar.

7.It had been stated that the fourth respondent had conducted an enquiry and recommended cancellation of patta. It had been further stated that on 20.10.2021, the third respondent without providing any opportunity, passed an order adverse to the interest of the Writ Petitioner herein. A revision was filed before the second respondent under Section 13 of the Tamil Nadu Patta Pass Book Act, 1983. A revision was also preferred by the seventh and eighth respondents before the second respondent.

8.Claiming that the revision filed by the petitioner herein was not considered, the petitioner had moved before this Court and finally, in W.A.(MD)No.31 of 2022, a direction was given to the second respondent to take up both revision petitions, namely, the revision petition filed by the Writ Petitioner and the revision petition filed by the seventh and eighth respondents, Natarajan and his wife Hemalatha together for consideration and to dispose of the same within a period of six weeks.

9.The order in the Writ Appeal may be referred for better appreciation, since the order passed by the District Revenue Officer was consequent to such direction in the Writ Appeal and it is the order of the District Revenue Officer, which is now been put to test.

10.In ***W.A(MD)No.31 of 2022 [Thulsidas K.Patel vs District Revenue Officer, Trichy and four others]***, a Division Bench of this Court by a judgment, dated 01.02.2022, on a grievance raised that the revision preferred by the appellant therein was not taken into consideration by the first respondent/District Revenue Officer, whereas, on the other hand, he had taken up for consideration a revision preferred by the fourth and fifth respondents therein/Natrajan and Hemalatha, passed the following order:

> *"4.According to the appellant, the revision petition filed by him is not yet taken on file and numbered, before which, the Revision Petition filed by respondent Nos.4 and 5 was taken up for enquiry. When there are two Revision Petitions pending, relating to the same issue, unless both are heard together, there is a chance of conflicting orders being passed. Before the Writ Court, when it was mentioned that enquiry has commenced, on the premise that both the revision petitions are heard together, the Writ Petition was dismissed by recording the statement of the learned Additional Government Pleader. It was pointed out by the learned counsel for the appellant that the revision petition is yet to be numbered and taken on file by the second respondent.*
>
> *5.The learned Additional Government Pleader also agreed that he would give suitable instructions to the officials to take up both the Revision Petitions together.*
>
> *6.However, we make it as a direction to the second respondent to hear both the Revision Petitions, filed by the petitioner and the respondent Nos.4 and 5 together by affording them an opportunity of personal hearing and pass appropriate orders on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order.*
>
> *7.The Writ Appeal stands disposed of with the above directions. No costs."*

11.The Division Bench had made it very clear that the second respondent must hear both the revision petitions. It had also been made clear that opportunity of personal hearing must be given. It had also been made very clear that appropriate orders on merits must be passed in accordance with law. A time limit of six weeks had been stipulated. This judgment of the Division Bench was passed on 01.02.2022.

12.Thereafter, the District Revenue Officer had taken up for consideration both the revision petitions. It had been earlier contended that suits were pending before various Courts questioning title and other aspects. But, however, pendency of those suits was not brought to the notice of either the Writ Appellate Court or the Division Bench. If suits had been filed subsequently, then it can be very well stated that the suits had been instituted subsequently only to prevent, or rather to take up a position to urge that the District Revenue Officer should not pass orders consequent to the pendency of the suits.

13.I hold that either way, the Writ Petition suffers from suppression of material facts. If suits were pending, they should have been disclosed before the Division Bench If subsequent to the order or judgment of the Division Bench the suits had been initiated, then it only shows that there was an underlying *mala fide* intention in the institution of civil suits only to prevent the District Revenue Officer from passing any order and not to enter into discussion and to press upon him that he should pass orders only after the civil suits were decided.

14.It must also be stated that when this Writ Petition came up for admission, a learned Single of this Court by order, dated 25.03.2022 had stated that there shall be an order of interim stay of the operation of the order passed by the District Revenue Officer.

15.Reliance was placed on a Division Bench judgment reported in ***2011 (5) CTC 94 [Vishwas Footwear Company Limited vs the District Collector, Mancheepuram and others]*** wherein, the Division Bench had placed an embargo on the revenue authorities/quasi judicial authorities from entering into a detailed discussion on the title of a property, when such issue was put before them even as an ancillary issue, while deciding issues relating to patta or any other revenue documents or as the main issue. It was held by the Division Bench that examination of title of a particular property was the prerogative of a competent Civil Court and the revenue officials should not enter into any discussion on the same.

16.The judgment referred *supra* is binding on this Court. But there is one subtle difference. The Division Bench judgment would apply on all force, when revenue officials conduct parallel enquiry on title, which should have been conducted by a Civil Court. But when there is an underlying complaint that fraud had been committed and that more particularly, impersonation had been done, then, a burden is thrust on the registration officials to examine whether a particular document presented before them had actually been presented *bona fide* or with an underlying fraud/impersonation. If so, it would mean that there has been a direct interference in discharge of the official work of the Sub Registrar, since the names stated in the documents presented and the persons actually presenting the document were different.

17.In simple terms, it could be held that there had been impersonation of the person, who is projected to have executed the document. This is a direct violation and interference of official duty discharged by the Sub Registrar. When this aspect is pointed out, a burden is cast on the registration authorities to enquire into that particular allegation.

18.In the judgment relied on, (***Vishwas Footwear Company Limited case*** referred *supra*) an embargo was placed on examination of title, without comprehending a situation where there could be either impersonation, when a document is presented for registration or consequent to such document being registered, revenue authorities had taken a call on the revenue documents.

19.Both the issues are directly connected. When under normal circumstances, a sale deed is registered and there is no imputation of fraud or forgery or impersonation and thereafter, when revenue documents are urged to be interfered with, then if there is a call to examine title, the registration or the revenue officials should place a restraint on themselves from entering into any discussion on title. This is the dictum laid down in ***Vishwas Footwear Company Limited case*** referred supra.

20.But, when the original document presented for registration, on the basis of which the revenue documents are sought to be interfered with, itself suffers on allegations of impersonation, fraud or forgery, then enquiry will have to be conducted, on any act done by the revenue authorities on the basis of such fraudulent document or a document presented on the basis of impersonation. A discussion will have to be made whether such document of title can be relied on or not. To that extent, the facts of this case differs from the facts as stated in the ***Vishwas Footwear Company Limited case*** referred supra and therefore, the dictum laid down therein would not directly bind this Court.

21.The learned Single Judge, who had granted interim stay, was swayed by the judgment in ***Viswas footwear case*** and I must quite honestly state that the learned Single Judge had been misled into granting an order of interim stay.

22.Let me now take up the impugned order, namely, the order of the District Revenue Officer. It had been impugned on the ground of *mala fide*. It had been impugned on the ground that the District Revenue

Officer had exceeded his jurisdiction by rendering a finding on title. It had also been impugned on the ground that the District Revenue Officer should have closed his eyes and should not have passed such an order particularly, because Civil Suits were pending and should have relegated the parties to adjudicate all issues before the civil cost.

23.It must also be kept in mind that not only were civil suits pending, but also a complaint of impersonation/forgery or fraud which had been preferred before the Anti Land Grabbing Cell was also pending. I am informed today during the hearing that a charge sheet had also been filed by the Investigating Agency. Fraud vitiates every solemn act. Once fraud is alleged or impersonation of an individual when a document is presented is alleged, then due credence must be given to that particular allegation and the same should be enquired into.

24.In the instant case, the petitioner herein had claimed that he had purchased the lands in S.No.27/2C measuring 1 acre 4 cents from Mallika Patel. It is very specifically alleged by the seventh and eighth respondents that they were the owners of the property and by impersonation, Mallika Patel had sold the property to the petitioner herein. Even if Mallik Patel had actually appeared and had executed the document, still once there is allegation of impersonation, till those issues are decided by a competent Court, the revenue documents should have retained the names of those persons, in whose names, the documents originally stood. It stood in the names of the seventh respondent, Natarajan and eighth respondent, Hemalatha.

25.Let me take up the allegation relating to undue influence alleged to have been exerted on the District Revenue Officer. It had been contended in the affidavit filed in support of the Writ Petition that a politician had apparently exercised influence on the District Revenue Officer. If that be so, the name must be given. He must be arrayed as a respondent. The date on which, he was present before the District Revenue Officer and the manner in which he exerted such influence must be stated.

26.It is to be kept in mind that when fraud is alleged, specific details must be stated. Asserting extraneous influence was exercised in the affidavit in a Writ Petition requires, details to be provided. Unfortunately, the petitioner had not given the name of the politician. The dates have not been given. The said individual has not been arrayed as a respondent in the Writ Petition.

27.The other issue, which had been taken up for discussion relates to title. The discussion relating to title is only ancillary. The original document was examined by the District Revenue Officer and he was presented with a finding of the District Registrar that the document for the entire lands should be cancelled consequent to impersonation having been committed at the time of registration. When that finding had been given, the District Revenue Officer should give credence to that particular finding.

28.It is contended that suits are pending, but as stated by me, this is a fact which should have been brought to the notice of the Division Bench. If suits were filed subsequently, it is clear that the suits were filed only with an intention to put on hold any order by the District Revenue Officer. Therefore, I would not give any credence to the suits which are pending.

29.The third aspect raised about the change of patta, overriding the earlier order of the Revenue District Officer, who had directed the parties to approach the Civil Court. The District Revenue Officer by the impugned order had only brought about status-quo ante. The Civil Court can proceed in their own very manner and it is common knowledge that the judgment of the Original Suit would not bring about on end to this *lis*. The Law provides appeal. The Law provides a Second Appeal. The Law provides moving over to the Supreme Court for a further appeal.

30.But when patta had been transferred on the basis of documents which are alleged to have been created fraudulently and by impersonation, then a duty is cast on the revenue officers to ensure that the patta is reverted back to the name of the original individual and thereafter, further mutation be done only after the disposal of the suit and the criminal proceedings, which had been initiated.

31.It had also been contended that the petitioner herein can restrict his claim only to lands in S.No.27/2C measuring 1 acre 4 cents. The change in the name of the revenue records by the impugned order from the name of the petitioner to the name of the original owners, Natarajan and Hemalatha is affirmed by me and upheld by me.

32.Let the Writ Petitioner go over to the Civil Court and assert his case and establish his case and establish title and naturally, if it is done so, the revenue authorities would be bound such decision. But mere pendency of the Civil Suits, should not be come in the way particularly, when fraud is alleged. I would therefore dismiss the Writ Petition and permit the Writ Petitioner to move over to the Civil Court for any relief he seeks.

33.The Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Index	:Yes / No	**21.06.2023**
Internet	:Yes	(2/3)
NCC	: Yes/No	

cmr

To

1.The District Collector, Trichy.

2.The District Revenue Officer,
Tiruchirappalli, Trichy District.

3.The Revenue Divisional Officer,
Tiruchirappalli, Trichy District.

4.The Tahsildar,
Thiruverumbur, Trichy.

5.The Zonal Deputy Tahsildar,
Thiruvembur, Trichy.

6.The Village Administrative Officer,
Elanthaipatti Village, Trichy.

C.V.KARTHIKEYAN, J.

cmr

Order made in
W.P.(MD)No.5354 of 2022

21.06.2023
(2/3)