

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.03.2023

CORAM

THE HONOURABLE MS.JUSTICE P.T.ASHA

WP(MD)No.9746/2020 &
WMP(MD)No.8755/2020

R.Manikandan

... Petitioner

Vs.

1.The District Revenue Officer,
Ramanathapuram District,
Collectorate Complex,
Pattinamkathan,
Ramanathapuram.

2.The Revenue Divisional Officer,
Hospital Road,
Ramanathapuram.

3.The Tahsildar,
Ramanathapuram.

4.M.Kalanjiam @ Balu

5.K.Muthukumar

6.K.Rajkumar

7.B.Viswanathan

... Respondents

(R7 is impleaded vide Court order dated 29.03.2023 in WPM(MD)No. 14997/2020 in WP(MD)No.9746/2020)

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus calling for the records in Na.Ka.No.B6/19638/2020 dated 14.07.2020 enquiry notice on the file of the first respondent and quash the same as illegal, ultra vires and unconstitutional and in consequence direct the third respondent to issue patta to the petitioner in so far Town Survey No.24 with an extent of 00.14.55 hectares and Town Survey No.25 with an extent of 00.14.35 hectares in Ward C, Block 1, Ramanathapuram Town.

For Petitioner : Mr.S.Ramesh

For Respondents : Mr.T.Amjadkhan,
Government Advocate for R1 to R3

Mr.R.Jegadeeswaran for R4

Mr.R.Saravanan for R7

No appearance for R5 and R6

ORDER

The petitioner has filed the above writ petition praying to quash the enquiry notice dated 14.07.2020 issued by the first respondent and consequently direct the third respondent to issue patta to him in respect of Town Survey No.24 measuring an extent of 00.14.55 hectares and

Town Survey No.25 measuring an extent of 00.14.35 hectares in Ward C, Block 1, Ramanathapuram Town.

2.The facts in brief are as follows.

2.1. The petitioner is the owner of the above referred property, which he had obtained by virtue of a settlement deed dated 17.07.2015 executed by his mother. His mother had purchased the property under sale deed dated 08.12.2008.

2.2. The tracing of the title to the property is as follows. Originally the property belonged to one Arumugam Chettiar. Arumugam Chettiar had sold the property to Angammal and Muthammal, who in turn had sold the property to Rankaram. From Rankaram, Kamalavani and Pushpavalli had purchased the property and they in turn had sold the property to Muthu Kumar and Raj Kumar, the sons of Krishnan Chettiar. It is from the aforesaid Muthu Kumar and Raj Kumar, the petitioner's mother had purchased the aforesaid property.

2.3. The petitioner would submit that his mother's right to the property has been recognized as her name had been mutated in the revenue records. After the settlement in his favour, the petitioner had sought to have the revenue records mutated in his name. At that juncture, the fourth respondent had submitted an application claiming right over the property. The second respondent had dismissed the application filed by the fourth respondent by order dated 06.06.2020. Against the said order, the fourth respondent had preferred a revision petition before the first respondent, who had issued the impugned order.

2.4. The petitioner would submit that the fourth respondent had earlier filed a suit in OS.No.128/2007 on the file of the District Munsif Court, Ramanathapuram claiming bare injunction against Muthu Kumar and Raj Kumar, who are arrayed as respondents 5 and 6 herein, stating that he is the title holder. Muthu Kumar and Raj Kumar had filed written statement asserting their title and possession to the property. The fourth respondent had ultimately got the suit dismissed as not pressed. Against the same, there is no appeal. Therefore, that order had attained finality.

Without resorting to the Civil Court, the fourth respondent is trying to use the revenue Authorities to assert a non-existing right. The petitioner would submit that once there is a serious dispute with reference to the title, the first respondent ought not to have even entertained the petition and should have relegated the parties to the Civil Court.

3. Heard the learned counsels on either side.

4. If the fourth respondent seeks to assert his title to the suit property, he should establish the same, which can only be done in a suit. The Tamil Nadu Patta Pass Book Act, indicates that, any serious dispute with reference to title has to be only settled by Civil Court and not by Revenue Authority. Normally, this Court would not interfere in the jurisdiction of an Authority to consider and pass orders with reference to the subjects falling within their jurisdiction. However, in the instant case, there is a *prima facie* fetter to the Revenue Authorities considering the application, particularly when, the issue of title is in question.

5. Therefore, the writ petition is allowed. The order of the first respondent dated 14.07.2020 in Na.Ka.B6/19638/2020 is set aside. The parties are directed to approach the competent Civil Court to redress their remedy. No costs. Consequently, the connected Miscellaneous Petition is closed.

29.03.2023

NCC:Yes/No

Index:Yes/No

Speaking/Non-speaking order

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To

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WP(MD)No.9746/2020

P.T.ASHA, J.

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WP(MD)No.9746/2020

29.03.2023