



W.P.(MD)No.17140 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 18.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.17140 of 2023
and
W.M.P.(MD)No.14338 of 2023

T.Sudalaikumar

... Petitioner

versus

1. The Revenue Divisional Officer,
Tirunelveli.

2. The Thasildar,
Palayamkottai Taluk Office,
Tirunelveli District.

3. M.N.Sulaiha

4. Hasanath

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorari, to call for records in Na.Ka.No.A3/279/2023 dated 04.07.2023 on the file of the 1st respondent and quash the same.



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For Petitioner : Mr.S.Kumar

For Respondent : Ms.D.Farjana Ghoushia,
Special Government Pleader

ORDER

This writ petition is filed challenging the notice issued by the first respondent/the Revenue Divisional Officer, Tirunelveli, dated 04.07.2023. The Revenue Divisional Officer, Tirunelveli, has issued the impugned notice on the application filed by the respondents 3 and 4 under the Tamil Nadu Patta Pass Book Act.

2. The learned counsel appearing for the petitioner, by referring to Rule 4(4) of the Tamil Nadu Patta Pass Book Rules submits that the issue with regard to the ownership of the property is still pending before this Court in S.A.(MD)No.312 of 2011 and therefore, pending the case, the Revenue Officials are not competent to proceed with



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further under the Patta Pass Book Rules.

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3. In support of his submission, the learned counsel has relied on a Judgment of this Court in W.P.No.11793 of 2020 dated 07.09.2020, wherein, this Court has held as follows:

“9. The petitioner has approached the 3rd respondent seeking for issuance of patta based on the decree passed by the Trial Court in OS.No.330 of 2006. By the time, the patta was transferred in the name of the petitioner, the appeal has been filed and it was pending in AS.No.4 of 2017. It must be borne in mind that the appeal is only a continuation of the original proceedings and the status of the parties will be determined only on the disposal of the appeal. Therefore, the Revenue records ought not to have been changed in the name of the petitioner till the civil proceedings reached finality.”

4. The learned counsel appearing for the petitioner has also relied on another Judgment of this Court passed in W.P.(MD)No.11415 of 2017, dated 25.06.2021, wherein, this Court has held as follows:



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“5. In the considered view of this Court, there is admittedly a Second Appeal is pending before this Court and the revenue authorities ought to have waited for the final judgment in the Second Appeal and thereafter, acted in line with the result in the Second Appeal. Instead, the third respondent has proceeded to change the name in the patta in favour of the fifth respondent. The proceedings of the third respondent requires interference of this Court and accordingly, the same is set aside.”

5. This Court considered the submission made by the learned counsel appearing for the petitioner and also perused the materials placed on record.

6. The petitioner claims that he is the owner of the property having an extent of 1 acre 45 cents in Survey Nos.54/1A1A and 54/1A1B at Munnerpallam Village. But, he has sold his property to one Dr.Mani and one S.Murugesan by a sale deed dated 28.12.2007.



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The respondents 3 and 4 appears to have filed a suit as against the vendees of the petitioner before the Principal District Munsif Court, Tirunelveli in O.S.No.321 of 2008 for the relief of declaration and injunction with regard to the suit schedule property. The suit was decreed in favour of the respondents 3 and 4 by Judgment and Decree dated 05.06.2008. The vendees of the petitioner have also filed an appeal suit in A.S.No.61 of 2010 before the Principal Sub Court, Tirunelveli and it was dismissed on 28.09.2010. Aggrieved over that, they have preferred a Second Appeal before this Court in S.A.(MD)No. 312 of 2011. Pending this second appeal, they have re-conveyed the property to the petitioner. Therefore, the petitioner claims that he is the owner of the property. He has also filed a necessary application to implead him as a party to the second appeal in S.A.(MD)No.312 of 2011.

7. Now, according to the learned counsel appearing for the petitioner that since the second appeal is pending, as per Rule 4(4) of



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the Tamil Nadu Patta Pass Book Rules, the Revenue Officials are not competent to proceed with further. The respondents 3 and 4 have also filed a suit for declaration and got a decree in their favour on 05.06.2008. The appeal suit filed by the petitioner's vendees in A.S.No.61 of 2010 was also dismissed on 28.09.2010. As against the same, the second appeal in S.A.(MD)No.312 of 2021 is still pending without an admission.

8. Therefore, this Court is of the view that the second appeal has not been admitted on any substantial questions of law for the past 13 years and neither this petitioner nor his vendees have taken any steps to get the second appeal admitted for hearing.

9. In view of the above, this Court is not inclined to interfere with the notice dated 04.07.2023 issued by the first respondent and accordingly, this writ petition is dismissed. The petitioner is at liberty to challenge the order passed by the Revenue Divisional Officer,



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Tirunelveli, on succeeding in the second appeal. No costs.

Consequently, connected miscellaneous petition is closed.

18.07.2023

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

To

1. The Revenue Divisional Officer,
Tirunelveli.
2. The Thasildar,
Palayamkottai Taluk Office,
Tirunelveli District.



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B.PUGALENDHI, J.

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