BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **01.03.2023**

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.P(MD)No.17629 of 2014

Varadarajan ..... Petitioner

- Vs-

1. The District Collector,
   Trichy.

2. The District Revenue Officer,
   Office of the District Revenue Office,
   Trichy.

3. The Revenue Divisional Officer,
   Srirangam Division,
   Cholan Nagar,
   Trichy.

4. The Special Tahsildar,
   Manapparai,
   Trichy.

5. R.V.S.Veeramani ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1 to 4 herein to cancel the patta granted in favour of the fifth respondent herein to the extent of 0.0880 sq meters comprised in Town S.No.18/2 A-1 Old Survey No.544/3A situated at Sivaloor Village Manapparai Taluk, Trichy District on the basis of petitioner's representation dated 18.09.2014.

For Petitioner : Mr.N.Mariappan

For Respondents : Mr.M.Prakash
Additional Government Pleader
For R1 to R4
: Mr.H.Lakshmi Shankar -for R5

ORDER

This writ petition has been filed seeking for a Writ of Mandamus, to direct the respondents 1 to 4 herein to cancel the patta granted in favour of the fifth respondent herein to the extent of 0.0880 sq meters comprised in Town S.No.18/2 A-1 Old Survey No.544/3A situated at Sivaloor Village Manapparai Taluk, Trichy District on the basis of petitioner's representation dated 18.09.2014.

2. The averments made in the affidavit, it is clear that there is a dispute of title between the petitioner and the fifth respondent. When there

is a dispute of title between the private parties the revenue authorities are prohibited from considering any application for mutation of patta. This explicit from the provisions of the Rule 4(4) of the Tamil Nadu Patta Pass Book Rules, 1987, which is as follows:

> "*Rule 4 (4). In the event of the Tahsildar being satisfied that a dispute concerning ownership of patta is already pending in a Court or issues are raised before him which impinge on personal laws or laws of succession and all the parties interested do not agree on the ownership in writing, he shall direct the concerned parties to obtain a ruling on ownership from a competent Civil Court having jurisdiction before changing the entries as already recorded and existing in the various revenue records*".

3. The Honourable Apex Court has occasion to deal with the aforesaid Rule in the judgment reported ***in 2021 (11 SCC) 98 (Edelweiss Asset Constructions Company Limited Vs- R.Perumalswamy and others)*** *and* held that the Revenue officials have exceeded the jurisdiction for investigation of title of the disputed lands and the relevant portions of the aforesaid judgment, are extracted hereunder:

"18. The Tamil Nadu Patta Pass Book Rules, 1987 provide for the procedure to be adopted to deal with enquiries with respect to the entries made in the Patta Pass Book. Rule 4 provides for the procedure on recipient of an application or information with respect to an entry in the Patta Pass Book. The relevant portion of Rule Provides thus:

> *"4. Procedure on receipt of application or information -*
>
> *(1) On receipt of the application or information, the Tahsildar shall make an entry in the "Register of Applications Received"in the order of receipt in Form III. The Register shall be maintained village – wise.*
>
> *(2) On the basis of the information furnished in the application and as available in the existing land records or obtained otherwise, the Tahsildar shall cause to be served or despatched, under certificate of posting, to the persons having interest on the land a notice in Form IV calling upon them to make representation either orally, or in writing at a specified place on a specified date which shall be not less than fifteen days and forty days later than the date of receipt of the application or*

information.

(3) On the prescribed date, the Tahsildar shall conduct a summary enquiry. At the enquiry, on consideration of age, literacy and occupation, the Tahsildar may permit an authorised agent of the owner to appear on his behalf to supplement whatever the owner has to state orally or in writing. No legal practitioner in his professional capacity shall be allowed to represent any party at such an enquiry. There shall not be adjournment of the enquiry not more than twice and that adjournment shall be granted only on application made by the parties requesting for adjournment. Reasons for granting or refusing the adjournment shall be recorded by the Tahsildar in writing.

(4) In the event of the Tahsildar being satisfied that a dispute concerning ownership of patta is already pending in a Court or issues are raised before him which impinge on personal laws or laws of succession and all the parties interested do not agree on the ownership in writing, he shall direct the concerned parties to obtain order on the

ownership from a competent Civil Court having jurisdiction before changing the entries as already recorded and existing in the various revenue records. (emphasis supplied)

In terms of Rule 4(4), the Tahsildar upon being satisfied that a dispute concerning the ownership of patta is already pending in a Court or any issue that is raised before him impinges on personal or laws of succession shall direct the parties concerned to obtain and "order of ownership" from a competent civil Court having jurisdiction and accordingly change the entries recorded in various revenue records.

19.Under the Tamil Nadu Patta Pass Book Act, 1983 and the Tamil Nadu Patta Pass Book Rules, 1987 the Tahsildar is not empowered to adjudicate upon a "title dispute". A combined reading of Section 14 and Rule 4(4) indicates that where there exists a dispute with respect to ownership of a land between parties with respect to a patta entry, the correct procedure to be adopted is to approach a civil Court having competent jurisdiction. The entry records will be updated on the basis of the decree of the civil court upon adjudication.

20. In the present case, Government Order dated 17.08.2004 revoked the powers of rectification of defects in updating of registry cases conferred upon the Tahsildar by Government Order No.921 dated 15.08.2001. Instead, Government Order dated 17.08.2004 empowered the DRO to cure any defects occurring in the land registry after enquiry. In the present case, the first respondent by an application dated 07.09.2015 approached the DRO for change of patta in respect of the disputed lands. The DRO issued summons to the appellant to prove its legal ownership and possession. By an order dated 28.12.2015, the DRO solely relied on the report of the Revenue Divisional Officer and ordered deletion of the appellant's name from the land records and replaced it with the first respondent's name. The Revenue Officer had no jurisdiction to adjudicate upon title. A dispute with respect to the title of land is a mixed question of fact and law, which needs to be raised before a competent civil Court.

21. The narration of facts in the earlier part of the judgment makes it clear that on 26.02.1964, the State of Tamil Nadu executed a deed of assignment in favour of WSIL. The deed of assignment specifically records that the lands vested in the State of Tamil Nadu free of all encumbrances and were allotted to WSIL. The entire case

> *of the first respondent, was founded on an alleged sale deed of 09.10.1929, under which his father acquired the land and an alleged oral lease, by which the land was leased in favour of WSIL in 1963. Neither the sale deed nor the terms of the alleged oral lease have been produced in the course of the proceedings. Once the lands were acquired by the State of Tamil Nadu, any pre-existing claim of the first respondent would stand extinguished. The purpose of the Government Order dated 17.08.2004, is to enable the DRO to rectify the defects in the land registry. The DRO exceeded his jurisdiction by engaging in an exercise of investigating the title to the disputed land and substituting the first respondent with the appellant in the land records. The learned Single Judge was correct in holding that the DRO in the guise of acting in accordance with the said Government order, wrongly adjudicated upon the question of title which was beyond jurisdiction".*

4. In view of the same, I do not propose to issue mandamus as prayed for in the writ petition. But however, the petitioner would be at liberty to approach the appropriate civil Court seeking redressal of the grievances and thereafter to approach the revenue authorities seeking for appropriate relief in consonance with the civil Court findings.

5. With the above said observation, this Writ Petition is disposed of. There shall be no order as to costs.

01.03.2023

NCC: Yes / No
Index : Yes / No
Internet : Yes / No
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K.KUMARESH BABU, J.

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W.P(MD)No. 17629 of 2014

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