



W.P.(MD) No.20899 of 2014

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.02.2023

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD) No.20899 of 2014

and

M.P.(MD) No.1 of 2014 and W.M.P.(MD) No.5903 of 2017

N.Tamilarasan

... Petitioner

/vs./

1.The District Revenue Officer,
Madurai District,
Madurai.

2.The Revenue Divisional Officer,
Madurai,
Madurai District.

3.R.Alagan

4.T.Kannan

5.J.Thomodharan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records pertaining to the Impugned Order of the 1st respondent in Na.Ka. No.79391/2012/G2 dated 21.11.2014 and quash the same as illegal.



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For Petitioner : Mr.J.Lawrance
For R1 & R2 : Mrs.D.Farjana Ghoushia
Special Government Pleader
For R3 : Mr.V.Nagendran
For R4 : Mr.C.Godwin
For R5 : Mr.A.Saravanan

ORDER

The writ petition has been filed challenging the proceedings of the first respondent confirming the order passed by the second respondent in mutating the revenue records in the name of the fourth respondent from the name of the petitioner herein.

2.It is trite law that when there is a rival claim between the parties, the revenue authorities under Rule 4(4) of the Tamil Nadu Patta Passbook Act, 1983, are denude of their jurisdiction to deal with the applications for grant of patta/mutation of revenue records and they are duty bound to relegate the parties to a civil suit. For better appreciation, Rule 4 (4) of the Tamil Nadu Patta Passbook Act, 1983, is extracted hereunder:-



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“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.It has been reiterated by the Hon'ble Apex Court in the case of ***Edelweiss Asset Constructions Company Limited Vs- R.Perumalswamy and others*** reported in **2021 (11 SCC) 98**. Relevant portion of the aforesaid judgment is 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 receipt 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



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“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



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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



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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



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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 the present case, even though there is a dispute of title between the petitioner and the respondents 3 to 5, the respondents 1 and 2 had proceeded to pass orders for correcting the revenue records standing in the name of the petitioner in favour of the fourth respondent.

5.In view of the aforesaid judgment of the Hon'ble Apex Court, the orders passed by the respondents 1 and 2 shall be kept in abeyance and shall not be relied upon by any of the parties in any proceedings in future till the rights are determined by an appropriate civil Court.



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6. With the aforesaid directions, the Writ Petition is disposed of. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No
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27.02.2023

To

1. The District Revenue Officer,
Madurai District,
Madurai.
2. The Revenue Divisional Officer,
Madurai,
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K.KUMARESH BABU, J.

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