



W.P.(MD)No.10374 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED :31.03.2023

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.(MD)No.10374 of 2016
and W.M.P(MD).No.8093 of 2016

Sarathambal

... Petitioner

Vs.

- 1.The Assistant Director of Survey and Land Records/
Personal Assistant (Land Survey) to
District Collector,
Thanjavur District.
- 2.The Inspector of Land Survey,
Pattukottai Municipality,
Pattukottai,
Thanjavur District.
- 3.The Sub-Inspector of Land Survey,
Pattukottai Municipality,
Pattukottai,
Thanjavur District.
- 4.The Tahsildar,
Pattukottai District,
Thanjavur District.
- 5.Pandiyan



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6.Nenduchezian

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records relating to the proceedings of the first respondent in Na.Ka.No.5596/2015 (Aa1) dated 06.04.2016 and quash the same and direct the respondents 1 to 4 to maintain status quo till the disposal of the civil suit in O.S.No.12 of 2016 pending on the file of the Sub Court, Pattukottai.

For Petitioner :Mr.D.R.Murugesan

For Respondents :Mrs.D.Farjana Ghoushia
Special Government Pleader
for RR1, 2 and 4
Mr.P.Sesubalanraja for R5 and R6
No-appearance for R3

ORDER

The petitioner assails an order dated 06.04.2016 of the first respondent by which the measurement of T.S.No.12 was modified at the request of the private respondents herein.



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2. The petitioner asserts that he resides at a property bearing Survey No.86K1 in block No.21 of Ward No.B in Pattukottai Town, Thanjavur District. Respondents 5 and 6 own an adjacent property bearing Town Survey No.12. Since there is a dispute between the petitioner and respondents 5 and 6 with regard to total extents of their respective properties, the petitioner filed O.S.No.12 of 2016 before the Sub Court, Pattukottai, seeking a declaration that the petitioner is the owner of the property described in Schedule 'A' to the plaint and also seeking a mandatory injunction in relation thereto. The said suit is pending as on date.

3. The petitioner contends that the impugned order is unsustainable because the said order was issued without notice to the petitioner merely on the basis of the reports of respondents 2 and 3.

4. Learned counsel for the petitioner submits that the impugned order was issued on the basis of a modified opinion dated 24.03.2016 of the Government Pleader. Learned counsel points out that in the earlier opinion dated 08.02.2016, the Government Pleader had stated that the first



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respondent should await the judgment and decree in O.S.No.12 of 2016, whereas, in the subsequent opinion, he advised that the first respondent could proceed and take a decision subject to the outcome of O.S.No.12 of 2016. Both on the ground that the petitioner was not provided a reasonable opportunity and on the ground that the question relating to the extent of the property of respondents 5 and 6 should not have been decided while a civil suit relating thereto is pending, learned counsel contends that the impugned order should be quashed.

4. These contentions are refuted by learned counsel for the respondents 5 and 6. The contention that the petitioner was not heard before the impugned order was issued was refuted by inviting my attention to paragraph No.2 of the impugned order. Learned counsel submitted that the said paragraph indicates that the petitioner, Sarathambal, did not appear at the first hearing and that she was provided a second opportunity to appear at the hearing on 07.01.2016, by notice dated 28.12.2015. The next contention of learned counsel was that patta was issued to the petitioner on 14.08.2015 for an extent of 3154 sq.ft. Although this order was issued more than seven



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years ago, the order has not been assailed by the petitioner till date. The claim made in the suit is for the extent of 3465 sq.ft, which is not in consonance with the extent of land for which patta was issued. The next contention of learned counsel was that the revenue authorities are not prohibited from exercising powers under enactments such as the Tamil Nadu Patta Passbook Act, 1983, merely because a civil suit is pending. In support of this contention, learned counsel relied upon the order dated 26.03.2021 of this Court in W.P.No.7844 of 2021. The last contention of learned counsel was that the petitioner has not taken any steps to expedite the prosecution of O.S.No.12 of 2016. Therefore, he submits that the suit may be directed to be disposed of expeditiously, but that the impugned order should not be interfered with at this juncture.

5. Learned Special Government Pleader submits, on written instructions, for the respondents 1, 2 and 4 that the changed measurements have already been reflected in the relevant plan based on the impugned order. This exercise was carried out before the writ petition was instituted.



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6. As correctly contended by learned counsel for respondents 5 and 6, the revenue authorities are not prohibited from undertaking their functions under enactments such as the Tamil Nadu Patta Passbook Act, 1983, merely because a civil suit is pending. Undoubtedly, questions of title to immovable property fall within the province of civil courts and revenue authorities are obligated to act in accordance with the judgment and decree of the civil court in such regard.

7. In this case, the patta issued to the petitioner is for an extent of 3154 sq.ft. In the suit, the petitioner has laid claim to an extent of 3465 sq.ft., i.e. an additional extent of 311 sq.ft. In view of the issuance of patta for a lower extent of 3154 sq.ft, the first respondent cannot be faulted for acting on the request of respondents 5 and 6 and rectifying the error pointed out by them in the measurements in T.S.No.12. Such rectification would, however, be subject to the outcome of the pending civil suit.



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8. The civil suit was instituted in the year 2016 and learned counsel for the contesting private parties submit that the suit is at the stage of trial. By taking into consideration the stage of the suit, the Sub Court, Pattukottai, is directed to dispose of the suit as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of this order.

9. W.P(MD).No.10374 of 2016 is disposed of on the above terms without any order as to costs. Consequently, connected W.M.P(MD).No.8093 of 2016 is closed.

31.03.2023

NCC :No
Internet :Yes
Index :No
ssb



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SENTHILKUMAR RAMAMOORTHY, J.

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