IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29-07-2024

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THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM
And
THE HONOURABLE MR. JUSTICE C.KUMARAPPAN

WA Nos.2378 and 2380 of 2021
And
CMP No.15179 of 2021

P.Deekaram (Deceased)

D.Suresh

[Cause Title accepted vide order
of Court dated 15.04.2021 made
in CMP No.4195 and 4200 of 2021 in
WA SR Nos.11368 and 11362 of 2021] .. Appellants in both WAs

-vs-

R.Jeyachandran .. R-1 in WA 2378/2021

J.Bharath Kumar .. R-1 in WA 2380/2021

The State of Tamil Nadu
Represented by the Chief Secretary to Government,
Fort St. George,
Chennai-9. .. R-2 in both WAs

The Revenue Divisional Officer,
Tambaram,
Chennai-45. .. R-3 in both WAs

The Tahsildar,
Alandur Taluk,
Chennai District. .. R-4 in both WAs

The Special Tahsildar,
Town Survey and Settlement,
At the Office of Alandur Taluk,
Chennai. .. R-5 in both WAs

Sudhakar .. R-6 in both WAs

The District Collector,
Kancheepuram District. .. R-7 in both WAs

Writ Appeals are preferred under Clause 15 of the Letters Patent against the common order passed by this Court in WP Nos.13302 and 13303 of 2015 dated 20.11.2019.

For Appellants in both WAs: Mr.V.Raghavachari,
Senior Counsel for
Mr.A.Ramalingam.

For Respondent-1 in both WAs : Mr.Manoj Sreevalsan

For Respondents-2 to 5, and 7 in both WAs : Mr.A.Selvendran,
Special Government Pleader.

For Respondent-6 in both WAs : No Appearance

COMMON JUDGMENT

[COMMON JUDGMENT OF THE COURT WAS DELIVERED BY S.M.SUBRAMANIAM, J.]

The present Intra Court Appeals have been instituted challenging the common writ order dated 20.11.2019 passed in WP Nos.13302 and 13303 of 2015.

2. The fifth respondent in the writ petitions and his legal heir, are the appellants before us.

3. The writ petitions are instituted challenging the patta granted in favour of the respondents 5 and 6 by the Revenue Divisional Officer. Further direction is sought for to delete the name of the fifth respondent from the Town Survey Field Survey Register of Adambakkam Village pertaining to Survey Nos.71/1 and 71/3 corresponding to TS No.184/31.

4. Admittedly, the disputes between the appellants and the contesting respondents, are of civil nature. Applications were submitted under the provisions of Patta Pass Book Act, 1983 for grant of patta. Since patta has been granted in favour of the appellants, the respondents have instituted proceedings challenging the patta by way of writ petitions.

5. Mr.V.Ragavachari, learned Senior Counsel appearing on behalf of the appellants, would submit that an Appeal Suit was filed in AS No.83 of 2009. A fraudulent Lok Adalat Award has been obtained by coercion and actions are taken to set aside the Lok Adalat Award and to restore the Appeal Suit. Petitions filed are pending.

6. Mr.Manoj Sreevalsan, learned counsel appearing on behalf of the first respondent in both the Writ Appeals, would oppose by stating that based on the Award of the Lok Adalat, the Appeal Suit had already been withdrawn by the parties. Therefore, the civil litigation attained finality. Thus patta granted in the name of the fifth respondent, is to be restored.

7. When the petition to restore the Appeal Suit is pending before the Competent Court, it is not preferable to adjudicate the civil rights of the parties. Such rights are to be adjudicated with reference to original documents and evidences available on record.

8. The Appeal Suit was not adjudicated on merits and it was disposed of based on the Lok Adalat Award. A petition has been filed to restore the Appeal Suit, which is admittedly pending.

9. That being so, we are of the considered opinion that the parties have to adjudicate the pending issues and only after reaching finality in civil suit, the applications are to be filed before the Revenue Authorities for grant of patta, cancellation or to mutate the revenue records, as the case may be.

10. Section 3 of the Tamil Nadu Patta Pass Act, 1983 [hereinafter referred to as the 'Act', in short] deals with issue of patta pass book. Sub-Section (1) to Section 3 stipulates that "the Tahsildar shall issue

a patta pass book to every owner in respect of the land owned by him, on an application made by him in this behalf". Therefore, the owner of the property is entitled to submit an application under the provisions of the Act. To issue a patta pass book, it is a precondition that the applicant must be a owner. In the event of any dispute, even the Tahsildars/Revenue Authorities are not empowered to adjudicate the issues and they are bound to relegate the parties to approach the Competent Civil Court of Law. The disputes of civil nature, cannot be adjudicated by the Revenue Authorities. Only if the applicant is able to establish his title/ownership, then alone patta pass book is to be granted, but not otherwise.

11. Correspondingly, Rule 4 (4) of the Tamil Nadu Patta Pass Book Rules, 1987, enumerates that "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". Therefore, the Revenue Divisional Officer (RDO) is incompetent to adjudicate the dispute of civil nature between the parties.

12. Thus, we are inclined to keep the revenue proceedings in abeyance, till such time, the civil dispute between the parties reach its finality.

13. Mr.Manoj Sreevalsan, learned counsel for the first respondent, would submit that the Appeal Suit was withdrawn by the appellants voluntarily and not with reference to Lok Adalat Award passed. By withdrawing the Appeal Suit, they made an attempt to sustain the patta granted dubiously. This Court is not inclined to made any finding on merits raised between the parties.

14. Accordingly, the common writ order impugned dated 20.11.2019 passed in WP Nos.13302 and 13303, is set aside and all revenue proceedings issued under the provisions of the Patta Pass Book Act, 1983, are kept in abeyance.

15. Either of the party is at liberty to submit application after disposal of the civil cases. Thereafter, the Revenue Authorities shall consider the application on merits and pass orders by following the due process as contemplated under the Act and the Rules in force.

16. With the above observations, the Writ Appeals stand allowed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

(S.M.SUBRAMANIAM,J.) (C.KUMARAPPAN,J.)
29-07-2024

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
Svn

To

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3.The Tahsildar,
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