IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE **N. SATHISH KUMAR**

W.P. No.10093 of 2022

M.Nirmal @ Nirmal Kumar .. Petitioner

Vs

1.The Principal Secretary
Commissioner of Land Administration
Revenue Administration
Ezhilagam, Chepauk
Chennai 600 005

2.The Additional Chief Secretary
Commissioner of Land Administration
Ezhilagam, Chepauk
Chennai 600 005

3.The District Collector
Collectorate, Government Garden
Thirupathur 635 601

4.The District Revenue Office
District Revenue Office
Thirupathur District

5.The Sub Collector
Thirupathur District

6.The Tahsildar
Thirupathur

7.Senthil Murugan . .Respondents

PRAYER : Writ petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus calling for the records of the 4th respondent vide his proceedings in Na.Ka.T2/9192/2022 dated 11.03.2022 and quash the same as illegal and direct the respondents 1 to 6 not to issue patta in the name of the 7th respondent till the disposal of the counter claim of the petitioner pending before the civil court.

For Petitioner	:	Ms.Kanimozhi Sundar
For Respondents	:	Mr.P.Gurunathan, Addl. Govt. Pleader for R1 to R6 Mr.Nithyaesh Nataraj for Mr.Anirudh A Sriram for R7

ORDER

Challenge has been made to the order passed by the fourth respondent cancelling the order of the Sub Collector, namely the 5th respondent and granted patta in favour of the petitioner.

2. It is the main ground on which the writ petition has been filed challenging the order is that the civil suit is already pending in respect of the Survey No.94/13B2, the fourth respondent ought not to have interfered with the orders of the Sub Collector, wherein the Sub Collector had clearly held that when there is a civil suit pending between the parties, the revenue authority cannot go into the title and the parties should be relegated to the civil suit. The issue between the parties is relating to the Survey No.94/13B2.

3. It is the contention of the writ petitioner that he is the absentee owner and the seventh respondent taking advantage of the orders obtained from the revenue department and also the registering department, he tried to dispossess the petitioner from the property. Whereas, the contention of the 7th respondent is that he is the owner of the property of an extent of 3600 sq.ft. in Survey No.94/13B2 and that the parent title deed of the writ petitioner is relating to some other survey number and not to the said survey number. In such view of the matter, the order passed by the District Revenue Officer cannot be interfered at this stage.

4. I have perused the entire material placed before this court. At this stage, it is not disputed that there is a civil suit pending between the parties in O.S. No.180 of 2019. Though the suit has been filed by the seventh respondent, the RDO has passed an order relegating the parties to the civil court, thereafter it appears that before the DRO when the matter came before him, the 7th respondent has given an undertaking as if he is withdrawing the suit filed by him. Based on that undertaking, the DRO has passed the order. But the fact remains that only after obtaining the order from the DRO the 7th respondent has withdrawn the suit. It is relevant to note that in the said suit, the writ petitioner has also filed a counter claim in respect of Survey No.94/13B2 and the said counter claim is still pending. When the counter claim is still pending, merely the suit filed by the 7th respondent is withdrawn, it does not mean that there is no suit pending in respect of Survey No.94/13B2. The counter claim has to be decided as a suit and the evidence has to be let in. In such view of the matter, the impugned order passed on the ground that the 7th respondent has withdrawn the suit and therefore his name has to be mutated, stands quashed. The parties are directed to agitate their right to establish their title over the said survey number in the pending suit.

5. The writ petition is allowed on the above lines. No costs.

08.04.2024

Index : Yes / No
Speaking/non speaking order
Neutral Citation : Yes/No
Asr

To
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6.The Tahsildar
Thirupathur

7.The Government Pleader
High Court, Madras

N. SATHISH KUMAR, J.

Asr

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