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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20-02-2024

CORAM

**THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM
And
THE HONOURABLE MR. JUSTICE K.RAJASEKAR**

**WA No.1436 of 2022
And
CMP No.9299 of 2022**

1.Mr.Kishanlal
2.K.Meeta

.. Appellants

-VS-

1.Mrs.K.Pushpavalli @ Elizabeth Pushpavalli,
W/o.Dr.Vinay Kathiresan,
Represented by its Power of Attorney
Mr.T.Nithyanandam, S/o.Thirupathi,
No.3/488, Rajiv Gandhi Street,
MGR Nagar, Pullarambakkam Village,
Thiruvallur Taluk and District.

2.The District Collector,
Thiruvallur District,
Thiruvallur.



3. The Revenue Divisional Officer,
Thiruvallur.

4. The Tahsildar,
Thiruvallur Taluk,
Thiruvallur.

.. Respondents

Writ Appeal is preferred under Clause 15 of the Letters Patent against the order of this Court passed in WP No.14684 of 2021 dated 12.04.2022.

For Appellants	:	Mr.T.T.Ravichandran
For Respondent-1	:	Mr.A.V.Arun for Ms.M.Abiyu Monisha
For Respondents-2 to 4	:	Mr.A.Selvendran, Special Government Pleader.

ORDER

[ORDER OF THE COURT WAS MADE

BY S.M.SUBRAMANIAM, J.]

The present writ appeal on hand has been instituted against the order dated 12.04.2022 passed in WP No.14684 of 2021.



2. The fourth and fifth respondents in the writ petition are the appellants before us. The first respondent in the present writ appeal filed writ petition for a Mandamus to forbear the respondents from mutating and transferring the patta with respect to Survey Nos.73/1, 2, 74/2 to 8, 75/1, 3, 4, 76/2, 77/1, 77/3, 77/4 and 77/5, 77/11, 78/1, 78/1A1B, 79/12, 79/13 of Siruvanoor Village and Survey Nos.115/1 and 115/2 of Vedanginallur Village, Tiruvallur Taluk and District, till the disposal of the Civil suit.

3. The learned single Judge considering the fact that civil suit in OS No.1 of 2006 is pending on the file of the District Munsiff Court, Thiruvallur relegated the parties to resolve the issues through Civil Court of Law. The learned Judge relied on Rule 4(4) of Tamil Nadu Patta Pass Book Rules, directing the parties to approach the Civil Court. Further, direction was issued to the third respondent-Tahsildar not to entertain any application for transfer of patta in respect of the subject lands till the disposal of the suit in OS No.1 of 2006.



4. The learned counsel for the appellants would submit that the appellants are not parties to the suit in OS No.1 of 2006. As far as the appellants are concerned, the title has already been settled as they succeeded in the earlier suit. Therefore, the directions issued by the learned single Judge to the third respondent-Tahsildar not to entertain any application would result in infringement of right of the writ petitioner to claim patta/ transfer of patta.

5. The learned counsel for the contesting respondents would oppose the contentions raised on behalf of the petitioner by stating that other civil suits are also pending. In respect of the rejection of plaint, an appeal suit has been instituted.

6. That apart, the Tahsildar, in his counter, also relied on OS No.23 of 2006, which is pending on the file of the Sub Court, Thiruvallur. The said suit has also been disposed of based on the compromise memo. The said compromise memo came to be challenged by way of another suit in OS No.21 of 2020. The plaint in OS No.21 of 2020 has been rejected as against which the appeal suit is pending.



7. The appellants are not parties to the suit in OS No1 of 2006, but in the other suit, the appellants have succeeded.

8. The learned counsel for the first respondent would reply by stating that the vendor to the appellants, are parties in the suit in OS No.1 of 2006.

9. May that as it be. The disputed issues of civil nature cannot be adjudicated in the writ proceedings. No doubt during the pendency of civil suit, the Tahsildars may not be in a position to entertain any application under the provisions of Tamil Nadu Patta Pass Book Act. Under Section 3 of the Tamil Nadu Patta Pass Book Act, the “owner” alone is entitled to submit an application, seeking patta. When the title of the property is in dispute, the application is not entertainable. Thus the learned single Judge is right in referring Rule 4(4) of Tamil Nadu Patta Pass Book Rules and relegating the parties to resolve the issues through Civil Court of Law.



10. However, we find that there is a force in the arguments of the learned counsel for the appellants. The learned counsel for the appellants mainly contended that the appellants may not be driven unnecessarily to civil litigations, since they have succeeded in the earlier suit and certain collusive and fraudulent petitions are filed in order to deprive the appellants from enjoying their property.

11. Considering the submissions of the learned counsel for the appellants, we are inclined to relegate the parties to approach the Revenue Divisional Officer, Thiruvallur for adjudication of the issues under the provisions of the Tamil Nadu Patta Pass Book Act.

12. The appellants are at liberty to submit an application before the Revenue Divisional Officer, Thiruvallur, within a period of three weeks from the date of receipt of a copy of this order. On receipt of any such application from the appellants, the Revenue Divisional Officer, Thiruvallur is directed to issue notice to all the parties concerned, conduct an enquiry by affording opportunity and by scrutinising the relevant documents and thereafter pass orders on merits and in accordance with law, within a period



of twelve weeks thereafter.

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13. With the above directions, the order of the learned single Judge stands modified and the present Writ Appeal stands disposed of. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

(S.M.SUBRAMANIAM,J.) (K.RAJASEKAR,J.)

20-02-2024

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

To

2.The District Collector,
Thiruvallur District,
Thiruvallur.

3.The Revenue Divisional Officer,
Thiruvallur.



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4.The Tahsildar,
Thiruvallur Taluk,
Thiruvallur.

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AND
K.RAJASEKAR, J.

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