

Madras High Court

V.Boovaraghamoorthy vs The District Revenue Officer on 16 July, 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :16.07.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.24839 of 2014

and

M.P.Nos.2 of 2014 & 1 of 2015

V.Boovaraghamoorthy

..Petitioner

vs

1. The District Revenue Officer,
Villupuram District,
Villupuram
2. The Revenue Divisional Officer,
Dindivanam
3. M.Kannappa Chettiar
4. V.Venkatasubba Reddiar (Deceased)
5. K.Manickam
6. V.Balasubramanian
7. V.Raghuraman
8. V.Udhaykumar
9. K.B.J.Jayabharathi
10. B.Bhuvaneswari
11. B.Umamaheswari

(R5 impleaded as per order dated 09.01.2015
by TSSJ in M.P.No.3 of 2014 in
W.P.No.24839 of 2014)

(R6 to R11 are substituted as LR's of R4
V.Venkatasubba Reddiar as per order dated
19.06.2018 by SMSJ in W.M.P.No.5079 of 2017
in W.P.No.24839 of 2014)

..Respond

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to i

For Petitioner

: Mr.P.Valliappan

For RR 1 & 2

: M/s.A.Sri Jayanthi,

Special Government

For R3

: Mr.G.Krishnakumar

For R5

: Mr.V.Bhiman

For R4

: Deceased

O R D E R

The order of cancellation of patta issued by the Revenue Divisional Officer, Dindivanam in proceedings dated 01.09.2014 is under challenge in this writ petition.

2. The learned counsel appearing on behalf of the writ petitioner made a submission that the petitioner is the absolute owner of the land measuring an extent of 1.07 acres situated in Survey Nos.21/1 and 21/2, Sankarapuram Village, Gingee and the petitioner purchased the said land through a public auction on 23.12.1987 conducted by the District Munsif Court at Gingee in E.P.No.423 of 1984. The sale certificate was also issued in favour of the writ petitioner.

3. While elaborating the case of the writ petitioner, the petitioner's counsel stated that on 11.09.1970 one Govinda Reddiar filed a civil suit in OS.No.393 of 1970 before the District Munsif Court at Pondicherry and obtained a money decree. During the year 1984, the execution petition filed by Govinda Reddiar in E.P.No.423 of 1984 in O.S.No.393 of 1970 whereby the subject property was attached and brought for sale in public auction. The petitioner's father Venkatasubba Reddiyar purchased the subject property in the public auction sale conducted by the District Munsif Court at Gingee on 23.12.1987 in E.P.No.423 of 1984. The application filed by the third respondent in E.A.No.332 of 1988 to set aside the auction sale was dismissed by the Court on 18.12.1990. Accordingly, the sale certificate was issued in favour of the petitioner's father i.e. the fourth respondent.

4. The suit in O.S.No.44 of 1991 filed by the third respondent and his family members before the District Munsif Court, Gingee on 08.01.1991 was for partition of the subject property. Thereafter, the sale certificate was registered as Document No.14 of 1992 before the Office of the Sub Registrar, Gingee on 29.01.1992. C.M.A.No.21 of 1992 filed by the third respondent against the order passed in E.A.No.332 of 1988 was also dismissed by the Subordinate Court at Dindivanam on 18.08.1995. Consequently, patta was granted in favour of the father of the petitioner, namely the fourth respondent on 01.10.2011. The suit filed in O.S.No.44 of 1991 was also dismissed by the District Munsif Court, Gingee on 14.10.2011. The father of the writ petitioner / fourth respondent executed a settlement deed in favour of the writ petitioner and the same was registered as Document No.3348 of 2011 before the Sub Registrar Office at Gingee on 19.12.2011. Thus, the patta was transferred in the name of the writ petitioner on 23.12.2011. Thereafter, the third respondent filed a suit in O.S.No.33 of 2012 against the writ petitioner and the fourth respondent for bare injunction on 10.02.2012. The appeal against the grant of patta was also preferred by the third respondent. Accordingly, the third respondent filed W.P.No.16195 of 2012 and this Court directed the second respondent to dispose of the appeal filed by the third respondent within a period of twelve weeks on

07.11.2012. Meanwhile, the sons of the third respondent filed an appeal in A.S.No.40 of 2012 before the Subordinate Court at Gingee against the Judgment and Decree passed in O.S.No.44 of 1991 on 08.11.2012. The second respondent disposed of the appeal filed by the third respondent on 04.03.2013 on the ground that he cannot decide the same in view of the fact that the civil litigations are pending between the parties. Once again, the third respondent filed W.P.No.15885 of 2013 for quashing of the notice dated 05.06.2013 and the same was dismissed by this Court with a cost of Rs.25,000/- on 24.10.2013. The writ appeal in W.A.No.2448 of 2013 filed by the third respondent was also dismissed by the Division Bench on 14.02.2014. All other cases filed by the third respondent in W.P.No.2345 of 2014 and Crl O.P.No.6124 of 2014 have been disposed of on the ground the civil litigations are pending between the parties. Subsequently, the impugned order was passed by the second respondent in cancelling the patta on 01.09.2014. Thus, the writ petitioner is constrained to move the present writ petition challenging the said order.

5. The learned counsel for the petitioner made a submission that the father of the writ petitioner is the auction purchaser and the sale certificate was also issued in favour of his father. Thus, he is entitled for patta and the patta granted in favour of the fourth respondent cannot be cancelled. The third respondent in order to prolong the litigation filing the suit one after another with an intention to take away the property which was already registered in favour of the father of the writ petitioner who in turn executed a settlement deed in favour of the writ petitioner. Under these circumstances, the respondents cannot cancel the patta granted in favour of the father of the writ petitioner and consequently in the name of the writ petitioner.

6. This court is of an opinion that under section 3 of the Patta Passbook Act, 1983, the competent authorities are empowered to grant patta only to the owner. In the event of establishing the ownership, the person concerned is entitled to get patta. In the event of any dispute in respect of the immovable property, then the parties have to approach the competent civil court of law to establish their title, ownership or possession. Only after the conclusion of these civil litigations, the respective parties shall approach the competent revenue officials for grant of patta under the provisions of the Patta Passbook Act. The competent authority under the Patta Passbook Act is incompetent to adjudicate the title, ownership or possession in respect of the immovable property.

7. Under these circumstances, the grant of patta or cancellation of patta cannot be granted under the Patta Passbook Act during the pendency of the civil litigations between the parties. Under these circumstances, all the proceedings issued by the respondents / competent authorities under the provisions of the Patta Passbook Act are kept in abeyance and the respective parties are at liberty to adjudicate their respective rights before the competent civil court of law and only after the conclusion of the civil litigations, the parties concerned are at liberty to approach the competent authority under the Patta Passbook Act for grant of patta. Thus, all the proceedings issued by the respondents under the Patta Passbook Act are kept in abeyance.

8. It is left open to the respective parties to file a fresh application for grant of patta or cancellation of patta or modification in revenue records after the conclusion of the civil litigations. Accordingly, the writ petition stands disposed of. Consequently, connected miscellaneous petitions are closed. However, there shall be no order as to costs.

16.07.2018 lok/msrm Index : Yes / No Internet:Yes/No Speaking / Non-speaking To

1. The District Revenue Officer, Villupuram District, Villupuram

2. The Revenue Divisional Officer, Dindivanam S.M.SUBRAMANIAM, J.

lok/msrm W.P.No.24839 of 2014 16.07.2018