

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2015

CORAM :

THE HONOURABLE MR. JUSTICE T. RAJA

W.P.NO. 3378 OF 2003

and

W.P.M.P. No. 20 of 2015

1. M. Syed Mohamed
2. N. Mohamed Shafi

... Petitioners

Vs.

1. The Special Commissioner and
Commissioner of Land Administration
Chepauk, Chennai - 600 005.
2. The District Revenue Officer
Trichy District.
3. Mr. R. Jagannathan
4. The Assistant Settlement Officer
O/o.The Assistant Settlement Officer
Tanjore.
[R4 impleaded as per order dated
10/2/2015 passed in M.P.25/11 in
W.P.No.3378 of 2003]

... Respondents

PRAYER: This Writ Petition has been filed under Article 226 of the Constitution of India to issue an order of Writ of Certiorarified Mandamus, to call for the records in pursuant to the impugned order passed by the 1st respondent in Proc. Pa.Mu. K4/55/2002 dated 2.9.2002 and confirming the order of the 2nd respondent in Proc. Na. Ka. A.28816/2001 dated 11.12.2001 and quash these orders and consequently direct the respondents 1 and 2 to conduct a fresh enquiry after verifying all the connected revenue records of the disputed property and accordingly decide the same on merits and to pass further orders.

For petitioner : Mr. S. Nambi Arooran
for M/s. Ajmal Associates

For respondents : Mr. K.V. Dhanapalan, AGP for R1, R2 & R4
R3- No Appearance

O R D E R

This Writ Petition was filed in the year 2003 by M. Syed Mohamed, Son of Mr. Mohamed Sherief and N. Mohamed Shafi, Son of M. Nagoor Meeran, seeking issuance of a Writ of Certiorarified Mandamus, to call for the records in pursuant to the impugned order passed by the Special Commissioner and Commissioner of Land Administration, Chennai, the 1st respondent, in Proc. Pa.Mu. K4/55/2002 dated 2.9.2002, confirming the order of District Revenue Officer, Trichy, the 2nd respondent in Proc. Na. Ka. A.28816/2001 dated 11.12.2001 and to quash both the orders with the consequential direction to the respondents 1 and 2 to conduct a fresh enquiry after verifying all the connected revenue records of the disputed property.

2. The claim of the petitioners is based on the joint Power of Attorney executed in respect of the disputed land by Thiru Nawab Ali Khan "Wallajah Carnatic Nawab" to sell, mortgage, lease or gift the properties. Therefore, the petitioners initiated proceedings against the third respondent for cancellation of patta. However, during the pendency of the writ petition, the Principal namely Thiru Nawab Ali Khan "Wallajah Carnatic Nawab" died on 06.11.2007. But before his death he has executed a Hibba (Gift Deed) in favour of M. Syed Mohamed, the first petitioner herein, on 28.08.2001. But the same was handed over to him, after his death, only recently, therefore, as per the Hibba (Gift Deed) executed by Thiru Nawab Ali Khan "Wallajah Carnatic Nawab" he has become the absolute owner of the property, as such, as he is entitled to prosecute the writ petition as the petitioner. On this basis, he has filed this WPMP No.20 of 2015, to substitute him in the place of writ petitioners M. Syed Mohamed and N. Mohamed Shafi.

3. But this Court is not able to entertain the prayer. The reason is, when the petitioner came to this Court in the year 2003, as a Power of Attorney of Thiru Nawab Ali Khan "Wallajah Carnatic Nawab", it is not known how he was unable to move this present miscellaneous petition during the life time of Thiru Nawab Ali Khan "Wallajah Carnatic Nawab", on the basis of Hibba (Gift Deed) said to have been executed on 28.08.2001 during his life time. Only

after his death, the petitioner in an effort to enjoy the property, has come to this Court with an after thought. Therefore, this Court having full of suspicion of the gift deed, is not inclined to entertain the present prayer.

4. Consequently, since the Power of Attorney dated 04.11.1999 executed by Thiru Nawab Ali Khan "Wallajah Carnatic Nawab", stands discharged on the death of Thiru Nawab Ali Khan "Wallajah Carnatic Nawab", this writ petition fails and is dismissed. Consequently, WPMP No. 20 of 2015 is also dismissed. No costs.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

avr

To

1. The Special Commissioner and
Commissioner of Land Administration
Chepauk, Chennai - 600 005.
2. The District Revenue Officer
Trichy District.
3. The Assistant Settlement Officer
O/o.The Assistant Settlement Officer
Tanjore.

+1cc to Mr.K.S.Vamsidhar, Advocate, S.R.No.13964

+2cc's to M/s.Ajmal Associates, Advocate, S.R.No.12898, 12899

+1cc to the Government Pleader, S.R.No.13283

W.P.NO. 3378 OF 2003

and

W.P.M.P. No. 20 of 2015

UG(CO)

CA(29/04/2015)

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