

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:14.07.2016

CORAM

THE HONOURABLE MR.JUSTICE M.JAICHANDREN

W.P.No.1155 of 2014

and

M.P.No.1 of 2014

P.Kamalaveni

..Petitioner

vs.

1. The District Collector
O/o The District Collector
Palladam Road
Tirupur, Tirupur District.

2. The District Revenue Officer
O/o.The District Collector
Palladam Road
Tirupur, Tirupur District.

3. The Tahsildar
Palladam
Tirupur District.

4. R.Radhakrishnan

.. Respondents

Prayer: Writ Petition under Article 226 of the Constitution of India praying to issue a writ of mandamus, directing the third respondent to cancel the patta granted in Patta Nos.240, 478 comprised in S.F.No.188/2 now sub divided as S.F.No.188/2A, S.F.No.105/1, Kethanur Village, Palladam Taluk, Tiruppur District granted in favour of the fourth respondent and transfer the same in the name of the petitioner.

For Petitioner : Ms.S.Meenakumari

For Respondents: Mr.P.Karthikeyan
Government Advocate
for RR1 to 3
Mr.Kandhan Duraisamy for R4

ORDER

Heard.

2. This writ petition has been filed praying that this Court may be pleased to issue a WRIT OF MANDAMUS, directing the third respondent to cancel the patta (Patta Nos.240 and 478), granted in favour of the fourth respondent, in respect of the property comprised in S.F.No.188/2, now sub divided as S.F.No.188/2A, S.F.No.105/1, Kethanur Village, Palladam Taluk, Tiruppur District.

3. The petitioner has stated that she is the wife of late D.Purushothaman, who had died on 06.09.2011. By virtue of a family partition, dated 28.06.1984, between Sri Damodara Samy Naidu and his sons, viz., Ranganathan and Purushothaman, certain properties had been allotted in the name of Purushothaman. It has been further stated that the petitioner is the only legal representative of her husband, late D.Purushothaman. As the husband of the petitioner had died intestate, the petitioner is entitled to the possession and enjoyment of the share of the property, comprised in S.F.No.188/2, Kethanur Village, Palladam Taluk, Tiruppur District. The petitioner had also stated that, in this regard, she had lodged a police complaint against her relatives, on 05.12.2011, in Crime No.761 of 2011. She had further stated that a Civil Suit also has been filed, in O.S.No.436 of 2011, on the file of the District Munsif Court, Tiruppur, in respect of the property concerned. While so, the petitioner has preferred the present writ petition, before this Court, under Article 226 of the Constitution of India.

4. A detailed counter affidavit has been filed on behalf of the fourth respondent, dated 24.02.2014. Paragraph Nos.7 and 8 of the said counter affidavit read as follows:

"7. I humbly submit that I deny the averments and allegations stated in the paragraph 6 of the affidavit filed in support of the writ petition as false and motivated. The petitioner had suppressed the real facts. I humbly submit that the petitioner lodged a false complaint against us and the same was registered as Crime Number 761 of 2011 on the file of Kamanaickenpalayam Police Station. After detailed enquiry, the said police closed the case as "mistake of fact". I humbly submit that on 23.12.2011 the petitioner herein filed a suit for declaration and permanent injunction against me and other beneficiaries of the Will in O.s.No.436 of 2011 on the file of District Munsif Court, Thirupur regarding the properties owned by Latge Purushothaman. In this case

I and other defendants filed counter and written statements along with documents to prove the genuine nature of the will and the suit is pending. As on date, no order has been passed in favour of the petitioner herein.

8. I humbly submit that the averments and allegations found in para number 7 and 8 of the affidavit are false and motivated. As per the Will I became the owner of the property and applied for patta in my favour. In the circumstances, the petitioner herein filed objection petition before the Tahsildar on 27.09.2011. Hence, the Tahsildar, the third respondent conducted detailed enquiry on 18.10.2011 with both sides and transferred the patta in my name in patta numbers 240 and 478 on 21.12.2011 on the basis of his findings."

5. The learned counsel appearing on behalf of the respondents 1 to 3 had submitted that if the petitioner is aggrieved by the issuance of the patta, in favour of the fourth respondent, in respect of the property in S.F.No.188/2, Kethanur Village, Palladam Taluk, Tiruppur District, it is for the petitioner to file an appeal, if so advised, before the Revenue Divisional Officer concerned, Tiruppur District, as per Section 12 of the Tamil Nadu Patta Passbook Act, 1983, and Rule 14 of the Tamil Nadu Patta Passbook Rules, 1987. Therefore, the present writ petition is not maintainable.

6. In view of the submissions made on behalf of the parties concerned and on a perusal of the records available, it is noted, that the petitioner has preferred the present writ petition, challenging the issuance of patta in favour of the fourth respondent, in respect of the property in S.F.No.188/2, Kethanur Village, Palladam Taluk, Tiruppur District. It is clear that the relief prayed for by the petitioner, in the present writ petition, cannot be granted by this Court, in view of the Statutory remedy available to the petitioner, under Section 12 of the Tamil Nadu Patta Passbook Act, 1983, and Rule 14 of the Tamil Nadu Patta Passbook Rules, 1987.

7. In such circumstances, this Court is of the considered view that the present writ petition, filed by the petitioner, is liable to be dismissed, as not maintainable. Accordingly, this writ petition stands dismissed. However, it may be open to the petitioner to seek her reliefs, if any, before the appropriate

authority, under the provisions of the Tamil Nadu Patta Passbook Act, 1983, and the Tamil Nadu Patta Passbook Rules, 1987. No costs. Consequently, the connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The District Collector
O/o The District Collector
Palladam Road
Tirupur, Tirupur District.
2. The District Revenue Officer
O/o.The District Collector
Palladam Road
Tirupur, Tirupur District.
3. The Tahsildar
Palladam
Tirupur District.

+1 cc to Mr.D.Balachandran Advocate sr.39477
+1 cc to M/s.Muthumani Doraisami Advocate sr.39505

W.P.No.1155 of 2014

aa23/07/2016

सत्यमेव जयते

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