

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.2320 of 2014

1.C.Balaraman (deceased)

2.Nagarathinam

3.K.Syamala

4.K.Rajalakshmi

5.B.Ramadoss

6.K.Rajasree

7.B.Thirumoorthy

.... Petitioners

(P2 to P7 are substituted in the place of deceased P.1 as per order dated 3.2.2016 made in M.P.No.1/2015 in W.P.No. 2320/2014)

vs.

1.The District Collector,
Kancheepuram District,
Kancheepuram.

2.The Tahsildar,
Alandur Taluk,
Alandur, Chennai-16.

3.A.Babu

4.Vadivambal

.... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the first respondent to consider the representations of the petitioner dated 8.7.2013, 2.9.2013 and 30.9.2013 in respect of false patta issued in Survey No.94/2, Pallavaram Village vide patta No.242.

For Petitioners : Mr.N.Selvaraju

For Respondents : Mr.P.Sanjay Gandhi,
Addl. Govt. Pleader,
for R.1 and R.2

ORDER

The petitioners have come up with the present writ petition for the issuance of writ of mandamus, directing the first respondent to consider the representations of the first petitioner dated 8.7.2013, 2.9.2013 and 30.9.2013 in respect of false patta issued in Survey No.94/2, Pallavaram Village vide patta No.242.

2. It is the case of the petitioners that a vast extent of property situated at Kancheepuram District, Jamin Pallavaram, comprised in Survey No.94/2 was purchased by one Chinnathambi and he was in possession and enjoyment of the same. The said Chinnathambi and his wife sold a portion of the said property and left 1 acre and 57 cents. Later, the said Chinnathambi died leaving the deceased first petitioner and his brothers and children as his legal heirs. Thus, the deceased first petitioner and his family members were in joint possession and enjoyment of the said property. While so, the highways department had taken away 0.73 cents for widening the road. Thereafter, the deceased first petitioner and his family members are in possession and enjoyment of 0.84 cents of land. Subsequent to that, the deceased first petitioner and his family members have sold a portion of the property in Survey No.94/2 to an extent of 0.63 cents under three sale deeds to one Vadivambal and Ramamoorthy as early as in the year 1992 and retained the remaining 0.21 cents for their own and the patta No.242 still continues in the name of Chinnathambi. The said Vadivambal had illegally claimed 0.21 cents of land in Survey No.94/9 and illegally attempted to trespass in the said property. The same was resisted by the deceased first petitioner and he had filed a civil suit in O.S.No.215 of 2005 against the said Vadivambal and the same is pending on the file of the District Munsif Court, Alandur. During the pendency of the said suit, one Arumugam Naicker filed a suit against the deceased first petitioner and his brother Lingasami in O.S.No.27 of 2011 on the file of Sub Court, Tambaram stating that one Govindammal had sold a portion of the property to an extent of 21 cents in Survey No.94/2 in Jamin Pallavaram Village in his favour. The said Arumuga Naicker is the father of Vadivambal and father in law of Ramamoorthy. They have obtained patta No.4996 in respect of Survey No.94/2A2 and patta No.4997 in respect of Survey No.94/2A4, which have been converted from patta No.242 standing in the name of Chinnathambi. The property measuring to an extent of 0.21 cents in Survey No.94/2 belonged to the deceased first petitioner and his family members. Now, the Tahsildar, Alandur has wrongly issued patta No.242 in respect of the said

property to Arumuga Naicker. In this regard, the deceased first petitioner sent several representations to the first respondent about the wrong patta issued by the second respondent. Based on the said representations, the second respondent has sent a letter to all the parties including the deceased first petitioner to appear on 22.8.2013. But, till date, no action was taken on the said representations. Hence, the petitioners have come up with the present writ petition for the relief set out earlier.

3. I have heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 and 2.

4. Considering the facts and circumstances of the case and considering the submissions made on either side, this Court directs the first respondent to consider the representations of the deceased first petitioner dated 8.7.2013, 2.9.2013 and 30.9.2013 and pass appropriate orders, on merits and in accordance with law, by affording an opportunity of personal hearing to the petitioners 2 to 7 as well as to respondents 3 and 4 and necessary parties, if any, within a period of four weeks from the date of receipt of a copy of this order. It is made clear that this Court is not expressing any opinion with regard to the claim made by the petitioners and it is for the first respondent to consider the claim of the petitioners strictly on merits and in accordance with law. The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy// सत्यमेव जयते

Sub Assistant Registrar

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To

1.The District Collector,
Kancheepuram District,
Kancheepuram.

2.The Tahsildar,
Alandur Taluk,
Alandur, Chennai-16.

+1cc to M/S.N.Selvarajan, Advocate, S.R.No.10879
+1cc to the Government Pleader, S.R.No.11022

W.P.No.2320 of 2014

ctk (CO)
srg (24/02/2016)



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