

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.16426 of 2016

and

WMP.Nos.14193 and 14194 of 2016

1.Mrs.M.Palanathal
2.Mrs.Ponnathal
3.Mrs.S.Govindammal

... Petitioners

vs.

1.The Tahsildar (Revenue),
Tirupur North,
Tirupur.

2.The Revenue Divisional Officer,
Tirupur,
Tirupur District.

3.The District Revenue Officer,
Tirupur.

4.The District Collector,
Tirupur District.

5.K.Palanisamy
6.P.Krishnamoorthy

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus, to call for the records of the second respondent herein pertaining to the order made in Na.Ka.No.3788/2014/A-2 dated 04.02.2016 and quash the same and further direct the first respondent to mutate the name of the petitioners in Joint Patta No.1781.

For Petitioners : Mr.K.Vignesh Karthick
For R1 to R4 : Mrs.P.Rajalakshmi, G.A.

ORDER

The petitioners have come up with the present writ petition to quash the proceedings of the second respondent in Na.Ka.No.3788/2014/A-2 dated 04.02.2016 and consequently direct the first respondent to mutate the name of the petitioners in Joint Patta No.1781.

2. The case of the petitioners, as averred in the writ petition, is as follows:

2.1 Originally, the 'father Kondasamy Gounder purchased a property in S.F.No.158/1 measuring to an extent of 7.68 Acres in Neruperichal Village, Tirupur Taluk and District from one Dhanushkodi by a registered sale deed bearing Document No.78/1974 and he died intestate on 23.07.1975 leaving behind his wife Ramathal, two sons Palanisamy and Venkatachalam and three daughters/petitioners herein as his legal heirs.

2.2 Thereafter, the petitioners and their mother Ramathal have relinquished their right over the property in favour of the sons viz., Palanisamy/5th respondent herein and Venkatachalam by a release deed bearing Document No.755/1975.

2.3 On 12.02.1992, the said Venkatachalam has conveyed his share of 3.84 acres to his mother Ramathal by a registered settlement deed bearing Document No.704/1993. Subsequently, his mother's name was also included in the revenue records and she was in the joint possession and enjoyment of the property with the fifth respondent herein. However, the fifth respondent has executed a forged and fabricated unregistered sale agreement dated 09.01.1993 in favour of his brother Venkatachalam and filed a civil suit in O.S.No.292/1993 before the Sub Court, Tirupur and obtained an exparte decree on 27.08.1993 to get the said sale deed registered.

2.4 In the mean while, the mother of the petitioners Ramathal has settled the property measuring to an extent of 3.84 Acres in S.F.No.158/1 in Neruperichal Village, Tirupur District, which was in her exclusive possession, in favour of the petitioners herein by three settlement deeds bearing Document Nos.7706, 7707 and 7708 of 2009. Pursuant to the same, the petitioners have been in joint possession and enjoyment of the property. Subsequently, the revenue records were also mutated in the name of the petitioners and patta was also issued in their favour.

2.5 While so, the fifth respondent has settled the entire property measuring to an extent of 7.68 acres in favour of his son Krishnamoorthy, who is the sixth respondent herein on 18.10.2010. Based on the said settlement, the sixth respondent filed a suit in O.S.No.47/2011 before the Sub Court, Tirupur. Further, the fifth respondent filed an appeal dated 31.07.2014 before the second respondent against the order made in M.T.R.No.3191/1994 dated 14.12.1993 adding the name of Ramathal in patta no.1781, after the expiry of 20 years. By the proceedings dated 04.02.2016 made in Na.Ka.No.3788/2014/A2, the second respondent, without conducting proper enquiry and without

looking in to the documents, cancelled the patta transfer order made in MTR.No.3191/1994 in favour of the mother Ramathal and subsequent patta transfer order made in RTR. No.1828/2010 in favour of the petitioners herein. Aggrieved by the same, the petitioners have filed the present writ petition.

3. Learned counsel for the petitioners submitted that without conducting proper enquiry and without looking in to the relevant documents, the second respondent passed the impugned order, cancelling the patta transfer in the name of the petitioner's mother and also in the names of the petitioners, which is illegal. Hence, he prayed for setting aside the impugned order.

4. Learned Government Advocate, who took notice for the respondents 1 to 4, submitted that the petitioners, without exhausting the appeal remedy available to them, have straight away approached this court against the impugned order by way of the present writ petition. Therefore, she prayed for dismissal of this writ petition.

5. Heard both sides and perused the materials placed before this Court.

6. As rightly pointed out by the learned Government Advocate appearing for the official respondents, an appeal remedy is available to the petitioner before the third respondent herein as against the impugned order passed by the second respondent. Therefore, this Court is not inclined to entertain this writ petition.

7. Accordingly, the writ petition is dismissed. No costs. consequently, connected Miscellaneous Petitions are closed.
rk

s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

To

1.The Tahsildar (Revenue),
Tirupur North,
Tirupur.

2.The Revenue Divisional Officer,
Tirupur,
Tirupur District.

3.The District Revenue Officer,
Tirupur.

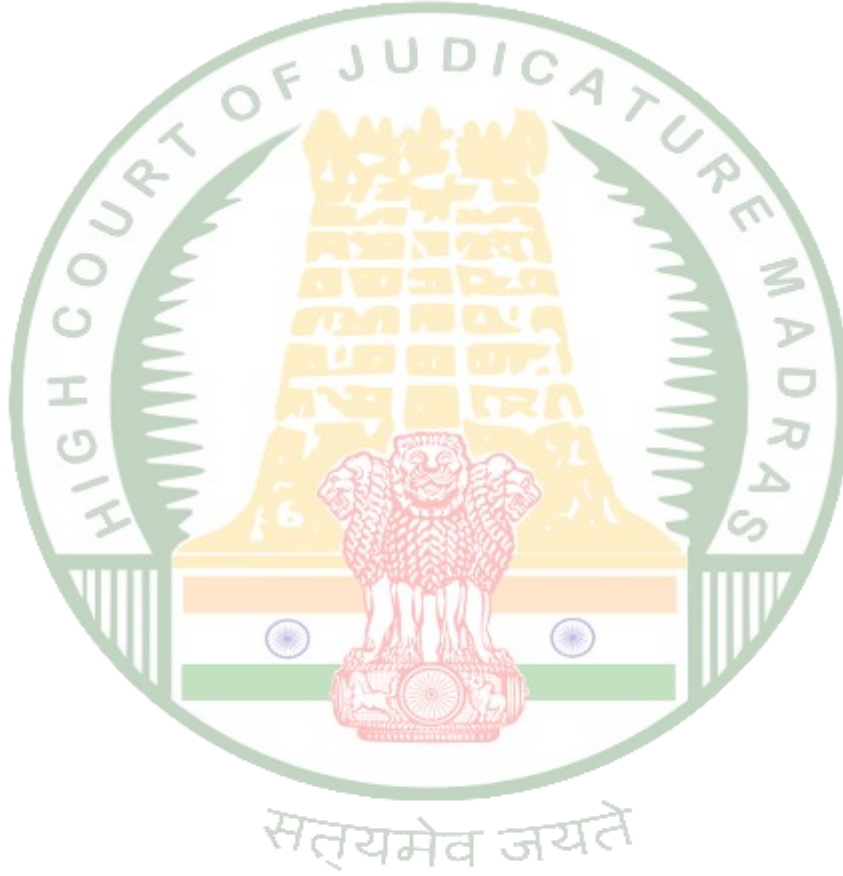
4.The District Collector,
Tirupur District.

+ 1 cc to Mr.K.Vignesh Karthick, Advocate SR 26978

+ 1 cc to Govt.Pleader SR 27399

ad(co)
prk10/6

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