

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.12.2016

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No. 44124 of 2016

1 Lakshmi @ Lakshmiammal
2 Parvathavardhini @ Parvathammal
3 Bakiyam @ Bakiyammal
4 Vimalammal ... Petitioners

Vs.

1 The Revenue Divisional Officer,
Mettur,
Salem District.
2 The Tahsildar,
Mettur Taluk, Mettur,
Salem District.
3 Samboornam
4 Natarajan ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents 1 and 2 to pass orders on the application of the petitioners dated 28.04.2015, 16.09.2016 and the reminder dated 17.11.2016 and cancel the separate patta in Patta Nos. 324, 1170, 1541, 1641 and issue Joint Patta in the name of the petitioners and other legalheirs in respect of S.No.240/1A to the extent of 0.38.5 Hectare, 2.S.No.240/1B to the extent of 0.38.5 Hectare, 3.S.No.240/1C to the extent of 0.05.0 Hectare, 4.S.No.240/1D to the extent of 1.87.5 Hectare and 5.S.No.235/1 to the extent of 0.11.5 Hectare.

For Petitioners : Mr.S.Doraisamy

For RR 1 & 2 : Mr. R.S.Selvam
Govt. Advocate

O R D E R

Heard Mr.S.Doraisamy, learned counsel appearing for the petitioners and Mr.R.S.Selvam, learned Government Advocate appearing on behalf of the respondents 1 and 2.

2. By consent, the writ petition itself is taken up for final hearing, in view of the limited prayer.

3. The petitioners have come up with the present writ petition praying to direct the respondents 1 and 2 to consider the application of the petitioners dated 28.04.2015, 16.09.2016 and the reminder dated 17.11.2016 and cancel the separate patta in Patta Nos. 324, 1170, 1541, 1641 and issue Joint Patta in the name of the petitioners and other legal heirs in respect of S.No.240/1A to the extent of 0.38.5 Hectare, 2.S.No.240/1B to the extent of 0.38.5 Hectare, 3.S.No.240/1C to the extent of 0.05.0 Hectare, 4.S.No.240/1D to the extent of 1.87.5 Hectare and 5.S.No.235/1 to the extent of 0.11.5 Hectare.

4. Learned counsel for the petitioners submitted that after the demise of the petitioners' father, the petitioners enjoying and possession of the subject property. The 3rd respondent and her husband M.S.Kumaresan filed a suit in O.S.No.111 of 2010 before the District Munsif Court, Mettur. The learned District Munsif, after hearing all sides dismissed the suit against the petitioners on 13.10.2014. Thus the petitioners, 3rd respondent and wife of the 4th respondent are the absolute joint owners of the above said property. The Civil Court also held that the entry made in the revenue records in the name of the M.S.Kumaresan husband of the 3rd respondent is wrong. Hence as per the decree dated 13.10.2014, Joint Patta has to be issued in the name of the petitioners, Samboornam. However, separate patta was issued by the 2nd respondent to the petitioners and in the name of Samboornam on the application made by the said M.S.Kumaresan. The petitioners have not preferred any application to issue separate patta. As per the separate patta a larger extent of land was occupied by the 3rd respondent and the petitioners were given only smaller extent. In spite of several reminders no action was taken by the respondents. Hence, the petitioners have come up with this writ petition.

5. Learned Government Advocate submitted that if the said application dated 28.04.2015, 16.09.2016 made by the petitioners is in order, the same would be considered by the respondents, in accordance with law.

6. Considering the facts and circumstances of the case, without expressing any opinion on merits, the second respondent is directed to consider the application dated 28.04.2015, 16.09.2016 of the petitioners, if it is otherwise in order, in accordance with law, by giving a reasonable opportunity to the parties concerned and pass appropriate orders as expeditiously as possible, not later than four months from the date of receipt of a copy of this order.

7. The Writ Petition is disposed of, on the above terms. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

jv

To

1 The Revenue Divisional Officer,
Mettur,
Salem District.

2 The Tahsildar,
Mettur Taluk, Mettur,
Salem District.

+1cc to Mr.Doraisamy, Advocate, S.R.No.74940

+1cc to the Government Pleader, S.R.No.76289

SR(CO)

RS(11/01/2017)

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