

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.8529 of 2016

1.L.John Solomon Premkumar
2.Arul Jothi
3.Agasthiyan
4.Senthilkumar
5.A.R.Ramamoorthy
6.Meenakshi Sundar
7.O.V.Raghuraman
8.Prem Kumar Setty Hariram Petitioners
(Petitioners 1 to 8 rep by their Power Agent
V.Sivagurunathan, S/o.Vaithianathan Thevar)

Vs.

1.The District Collector,
The Office of District Collector,
Kanchipuram,
Kanchipuram District.
2.The Revenue Divisional Officer,
The Office of Revenue Divisional Officer,
Tambaram, Kanchipuram District.
3.The Tahsildar,
The Office of Tahsildar,
Solinganallur, Kanchipuram District.

4.K.Murali

सत्यमेव जयते ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the 2nd respondent to dispose of the appeal dated 09.12.2015 preferred by the petitioners herein, submitted for cancellation of pattas bearing Nos.2500 & 11759 issued by the Office of Tahsildar, Solinganallur, for the Sub-Division of lands in Survey No.414 of Pallikaranai Village.

For Petitioners	: Mr.V.R.Appaswamee
For respondents	: Mr.V.Jayaprakash Narayanan, Special Government Pleader

ORDER

This writ petition has been filed by the petitioner praying for issuance of a Writ of Mandamus, directing the 2nd respondent to dispose of the appeal dated 09.12.2015 preferred by the petitioners herein with regard to the cancellation of patta bearing Nos.2500 & 11759 issued by the Office of Tahsildar, Solinganallur, for the Sub-Division of lands in Survey No.414 of Pallikaranai Village.

2.In the affidavit filed in support of the writ petition, it has been averred by the petitioner as follows_

2-1.Originally, the land measuring to an total extent of 4.57 acres in Survey No.414 in Pallikaranai Village, Solinganallur earlier belonged to one Mr.Varadhan. After the demise of the said Varadhan, his three sons namely 1)Perumal, 2) Veerasami, 3)Mari divided the said land between themselves. Accordingly, 1.53 acres of land was given to Mr.Perumal; 1.53 acres of land was given to Mr.Veerasami and 1.51 acres of land to Mr.Mari. After the division, they were in absolute possession of the said property. The above said Perumal has three sons namely Balaraman, Balakrishnan and Ezumalai. The said Veerasami has three sons namely Ganesan, Natesan and Tulsi. The said Mari has only one son by name Parasuraman.

2-2.In the year 1971, except Balaraman all other grandsons of late Varadhan namely 1)Balakrishnan, 2)Ezumalai, 3) Ganesan, 4)Natesan, 5)Tulsi and 6)Parasuraman signed and executed a General Power of Attorney vide Doc.No.1/1971 in favour of one Mr.Vijayakumar of Sri Ganapathi Syndicate Real Estate Company and gave power regarding the land measuring an extent of 3.77 acres in Survey No.414. After obtaining the power, Mr.Vijayakumar divided the 3.77 acres of land in Survey No.414 into layouts and sold all the plots to various persons. In the year 1973, the said Parasuram S/o.Mari executed a sale deed in favour of one Aathi Lakshmi vide Doc.No.974/1973 and sold his balance land of 28 cents in Survey No.414.

2-3.As such the said Balaraman S/o.Perumal retained his share of 51 cents of land in Survey No.414, without alienating the same and got patta in his name for his share of the land property. On 28.02.1979, the said Mr.Balaraman died leaving behind 1)C.B.Ramachandran, 2)C.B.Srinivasan, 3)C.B.Venkatesan, 4)K.Vijayalakshmi, 5)S.Kokila, 6)C.B.Loganathan, 7)R.Lilly as his legal heirs.

2-4.On 02.04.2007 except Mr.C.B.Ramachandran all other legal heirs of late Balaraman executed a release deed to and in favour of Mr.C.B.Ramachandran vide Document No.2728 of 2007 on the file of the District Registrar Office, Chennai South and

released their respective shares in the 51 cents of property in Survey No.414/1A1A (part) in favour of Mr.C.B.Ramachandran. As such, the said Mr.C.B.Ramachandran became sole owner of the property measuring an extent of 51 cents in Survey No.414/1A1A (part). Subsequently, he got patta bearing No.11510 in his name and the sub-division was altered into 414/12. Further, on the application made by the said C.B.Ramachandran, the sub-division survey number was changed into 414/19 instead of 414/12 and a fresh patta bearing Patta No.11957 was issued in the name of Mr.C.B.Ramachandran for the above said land of 51 cents. While so, on 02.07.2008, the said C.B.Ramachandran along with his legal heirs executed a deed of general Power of Attorney to and in favour of one Sivagurunathan (power agent of the petitioners herein), vide Doc.No.1409 of 2008 registered on the file of District Registrar, Chennai South and gave all powers relating to the above mentioned 51 cents of land comprised in Survey No.414/19. In the capacity of Power Agent, he divided the said 51 cents of land into 8 house plots, formed a layout and sold the same to the petitioners herein. Subsequently, the petitioners have got sub-division of the survey Numbers and got individual pattas in their names and they took possession of their respective properties by fencing the same and got electricity connections. The petitioners recently gave power of attorney in favour of the said Sivagurunathan in respect of the said properties.

2-5.While so, the 4th respondent herein started to disturb the peaceful possession of the petitioners stating that he is the owner of the said properties of the petitioners. The 4th respondent claimed that he has got patta in his name bearing Patta No.11759 for the land comprised in Survey No.414/17. On perusal the same, the petitioners came to know that on the basis of an earlier Patta bearing Patta No.2500 issued in the name of Elumalai, Veerasami and P.Arasu, the recent Patta No.11759 has been issued.

2-6.Since the entire extent of 4.57 acres of land in Survey No.414 was sold out to various purchasers, there is nothing remaining to the legal heirs of Varathan in Survey No.414 or its sub-division survey numbers. Under such situation, utilizing earlier revenue records, which stood in the name of Varadhan, some of his legal heirs fraudulently obtained patta in their names as if they have some land left out after selling the plots formed in the Survey No.414. The lands allotted in the lay-outs for roads are not yet given to the village panchayat by proper manner by executing gift deeds. As such, till date the ways/roads situated in the Survey No.414 do not have separate survey sub-division numbers. Utilizing the situation, some of the legal heirs of Varathan namely Elumalai, Veerasami and P.Arasu fraudulently got a joint patta bearing No.2500 as if they had retained some lands in Survey No.414

without selling. The Patta No.2500 was wrongly issued in the name of individuals for the lands unavailable. The lands denoted in the patta No.2500 were factually allotted for laying roads and has to be gifted to the Panchayat for common purpose. The revenue authorities did not inspect the real situation and wrongly issued Patta No.2500.

2-7.Taking advantage of the issuance of Patta No.2500, the said Mr.Arasu who is one of the legal heirs of Varadhan executed a sale deed to and in favour of the 4th respondent K.Murali showing as though some vacant lands for sale are available in Survey No.414, whereas no salable land was available in the said survey number. The 4th respondent using the bogus sale deed obtained a patta in his name bearing Patta No.11759 for the land in Survey Sub-division No.414/17. The Revenue Authorities without verifying and without spot inspection issued the Patta in respect of sub-division numbers as 414/17. Having got bogus sale deed and fraudulent Patta, the 4th respondent is disturbing the legal and rightful possession of the petitioners. The Patta No.11759 issued in favour of the 4th respondent denoting sub-division as 414/17 is false and liable to be cancelled. The petitioners have lodged a complaint before the Pallikaranai Police Station against the 4th respondent. The 4th respondent also lodged a counter blast complaint against the petitioners. The Police advised both parties to approach the Civil Court.

2-8.On 09.12.2015, the petitioners through their power agent have preferred an appeal before the 2nd respondent herein, seeking cancellation of Patta bearing Nos.2500 & 11759 issued by Solinganallur Tahsildar Office in respect of the sub-division lands in Survey No.414. But, till date the 2nd respondent did not take any steps to dispose of the Appeal filed by the petitioners and to cancel the false pattas. Hence, the petitioners have come forward with the present writ petition before this Court.

3.Heard both sides and perused the materials available on record.

4.Considering the limited scope of the prayer sought for in the writ petition, without expressing any opinion on the claim of the petitioners, this Court directs the 2nd respondent to consider the appeal dated 09.12.2015 preferred by the petitioners and pass appropriate orders, after affording opportunity of personal hearing to the petitioners as well as to all other necessary parties, on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order.

With the above direction, the writ petition is disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

ssv

To

- 1.The District Collector,
The Office of District Collector,
Kanchipuram,
Kanchipuram District.
- 2.The Revenue Divisional Officer,
The Office of Revenue Divisional Officer,
Tambaram, Kanchipuram District.
3. The Tahsildar
O/o.The Tahsildar
Sholinganallur
Kancheepuram District

+3 cc to M/s.v.R.Appaswamee Advocate sr.14879
+1 cc to Government Pleader sr.15000

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