

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2017

CORAM :

THE HONOURABLE MR. JUSTICE.S.VAIDYANATHAN

W.P.No.10442 of 2004

P.Ramaswamy

.. Petitioner

Vs

1. The Tahsildar,
Veppanthattai Taluk,
Perambalur District.
2. Mookkai
3. Ramayee
4. Angammal

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus, to call for the records of the impugned order dated 26.03.2004 in Patta No.1038 on the file of the 1st respondent and to quash the same and forbear the respondents from acting in any manner on the basis of the impugned order dated 26.03.2004 in Patta No.1038, relating to the property in Survey No.120/1, admeasuring 5.24 acres, Noothappur Village, Veppanthattai Taluk, Perambalur District.

For Petitioner : Mr.Alagu Gowthaman,
for Mr.M.Muthappan

For 1st Respondent : Mr.R.Venkatesh,
Government Advocate,

For Respondents 2 to 4 : Ms.T.Nithya
for Mr.A.G.Rajan

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O R D E R

The petitioner has come up with this Writ Petition seeking to quash the impugned order dated 26.03.2004 in Patta No.1038 on the file of the 1st respondent and forbear the respondents from acting in any manner on the basis of the said impugned order in Patta No.1038, relating to the property in Survey No.120/1, admeasuring 5.24 acres, Noothappur Village, Veppanthattai Taluk, Perambalur District.

2. According to the petitioner, he is in possession and enjoyment of the agricultural land measuring an extent of 2.62 acres in S.No.120/1, in Noothappur Village, Veppanthattai Taluk, which originally belonged to his mother, viz. Veerammal

and Patta in respect of the said land also stood in her name. Subsequently, UDR patta relating to the said land had been transferred in the name of the petitioner. The petitioner has paid Land Tax and other dues to the Government in respect of the said property lastly on 27.02.2003.

3. The grievance of the petitioner is that the 1st respondent, without any notice to him, included the names of respondents 2 to 4 herein in the said Patta for S.No.120/1, admeasuring 2.62 acres out of the total extent of 5.24 acres, on the basis of the representation given by the 2nd respondent herein, as if they are the joint owners of the same. It is the case of the petitioner that originally, the Patta relating to the property in S.No.120/1 admeasuring 5.24 acres was issued by the 1st respondent vide Patta No.539 in his name on 14.12.1996. While so, on 26.03.2004, the 1st respondent suddenly revised the Patta Number as 1038 and included the names of respondents 2 to 4 in the Patta, as if they are the co-owners of the property in S.No.120/1. Hence, challenging the impugned order dated 26.03.2004 in Patta No.1038, the petitioner is before this Court.

4. The 1st respondent/Tahsildar, Veppanthattai Taluk, Perambalur District, filed a counter affidavit, wherein, it is stated as follows:

(i) Originally, one Chinnaiya Gounder, Son of Ammasi Gounder of Noothappur Village, Veppanthattai Taluk, Perambalur District, purchased lands in S.F.No.120/1, measuring an extent of 2.62 acres out of 5.24 acres from one Chinnaasamy, through a registered Sale Deed dated 24.06.1996 vide Document No.647/1966. The remaining 2.62 acres was purchased by one Veerammal, who is the sister of the said Chinnaiya Gounder, through a registered Sale Deed No.957/1968 on 03.05.1968 from one Ramaswamy. Chinnaiya Gounder orally permitted his sister Veerammal to cultivate the total extent of S.F.No.120/1. But, the Patta stood in the names of both Chinnaiya Gounder and Veerammal. Chinnaiya Gounder had two daughters, viz. Mookayee and Ramayee and his sister Veerammal had only one son, viz. Ramaswamy, who is the petitioner herein.

(ii) At the time of Updating Registry Scheme, the total extent of the lands in S.F.No.120/1, 5.24 acres was transferred to the above said Ramaswamy in a irregular manner, thereby Chinnaiya Gounder's name was deleted without obtaining any order from the competent authority. Chinnaiya Gounder died on 08.07.2003 and after his demise, his daughter, viz. Mookayee, the 2nd respondent herein, gave a petition to the 1st respondent that in Patta

No.539, the petitioner was wrongly given Patta for the full extent in S.F.No.120/1 and hence, she sought to include the names of herself, her sister - Ramayee and her mother - Angammal as joint pattadhars in the said Survey Number.

(iii) After receiving the petition, the 1st respondent ordered the concerned Revenue Inspector for detailed Enquiry Report. On the basis of the Report received from the Revenue Inspector, the Tahsildar, Veppanthattai, in his proceedings dated 18.02.2004 ordered inclusion of names of the legal heirs of the deceased Chinnaiya Gounder.

5. Learned counsel for the petitioner submitted that the petitioner paid kist to the Government till 27.02.2003 and the Government has also issued Patta Pass Book finally. Hence, according to the learned counsel, the impugned order dated 26.03.2004 in Patta No.1038 including the respondents 2 to 4 as co-owners of the land in question is illegal and he sought to quash the same.

6. In reply, learned Government Advocate appearing for the 1st respondent submitted that kist is collected from those who are in possession of the land and that the petitioner cannot claim ownership on the basis of the kist paid to the Government. It is his further submission that Chitta in the Fasli year 1383 is the evidence of the joint enjoyment of Chinnaiya Gounder and Veerammal, who are co-owners of the land in question and that Chinnaiya Gounder permitted Veerammal to cultivate the land. He went on to contend that at the time of UDR, the petitioner gave a false statement and obtained Patta in his favour without the knowledge of the real owner and that the 1st respondent ordered issuance of joint patta in the names of the petitioner and respondents 2 to 4 only after perusal of the documents.

7. Heard the learned counsel on either side and perused the material documents available on record.

8. As per the averments in the counter, there are two separate Sale Deeds, one belonging to the husband of the 4th respondent, i.e. Chinnaiya Gounder and the other in the name of the petitioner's mother, viz. Veerammal. There cannot be any hurdle on the part of the authorities concerned to issue patta in the name of the petitioner's mother to the extent of the land purchased by her and in the name of the respondents 2 to 4 to the extent of land purchased by the father of respondents 2 and 3. As Chinnaiya Gounder is no more, there can be a joint patta insofar as the property purchased by him.

9. Insofar as the patta issued in favour of the petitioner, this Court finds that the said Patta ought not to have been given in his favour, as his mother viz. Veerammal is

alive. Hence, respondents herein are directed to issue separate patta to the petitioner's mother insofar as the property purchased in her name.

10 Hence, I find that the relief sought by the petitioner cannot be granted except the one stated supra. The Writ Petition is pending for more than 14 years and whether the petitioner is a cultivating tenant or by permitting him to cultivate, he becomes the owner of the property can be decided by the appropriate forum.

11 The Writ Petition is ordered on the above terms. It is made clear that if the parties are aggrieved, they are at liberty to approach the Civil Court, if so advised. No costs. Consequently, connected W.P.M.P.No.12214 of 2004 is closed.

-sd/-
Assistant Registrar
/ TRUE COPY /
Sub-Assistant Registrar

(aeb)

To:

The Tahsildar,
Veppanthattai Taluk,
Perambalur District.

+1 cc to MR.M.MUTHAPPAN Advocate SR.NO. 73876/2017

+1 cc to the Government Pleader High court, Maadras
SR.NO. 74421/17

br[co]
RD 27/11/2017

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Order in
W.P.No.10442 of 2004