

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2018

CORAM :

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P. No.16383 of 2011
and
MP. Nos.1 of 2011 & 1 of 2014

1.Baby
2.M.Pachiyappa Mudalliar ...Petitioners

Vs.

1. The District Collector,
Thiruvannamalai,
Thiruvannamalai District.
2. The District Revenue Officer,
Thiruvannamalai,
Thiruvannamalai District.
3. Revenue Divisional Officer,
Revenue Divisional Officer,
Cheyyar, Thiruvannamalai District.
4. The Tahsildhar, Arni Taluk,
Thiruvannamalai District.
5. The President,
Irumbedu Village,
Arni Taluk,
Thiruvannamalai District.

...Respondents

PRAYER: The Writ Petition is filed under Article 226 of the Constitution of India to pass an order in the nature of Writ of Certiorarified Mandamus, to call for the records to the 2nd respondent's and quash the order of the 2nd respondent dated 08.11.2010, and to direct the respondent to grant patta to the total extent of 1.18 cents in S.No.102/2 in Irumbedu Village, Arni Taluk, Thiruvannamalai District.

For Petitioners	:	Mr.N.Palani Mr.S.Sugendarn
For Respondents	:	Mr.A.Zakir Hussain, Government Advocate for R1 to R4 No appearance for R5

O R D E R

The petitioners have preferred this Writ Petition to quash the order of the 2nd respondent dated 08.11.2010 and to direct the respondents to grant patta to the total extent of 1.18 cents in S.No.102/2 in Irumbedu Village, Arani Taluk, Thiruvannamalai District.

2. According to the learned counsel for the petitioners, the property situated in S.No.102/2 to an extent of 1.18 Acres has been purchased by the 2nd petitioner in the name of his wife viz. Tmt.Baby (1st petitioner herein) registered in the year 1955. In the Revenue record, patta had been changed to an extent 0.09 Acres and the 2nd petitioner vide communication dated 14.09.2009 informed about the said change. Based upon that, 4th respondent made an enquiry and submitted a report to the 2nd respondent stating that originally the patta was registered in the name of 1st petitioner under sale deed dated 09.08.1955, to an extent of 1.18 acre in old S.No.201/1, 201/2 on the file of Sub Registrar, Arni in Document No.2116/55. The Commissioner of Arni Taluk given a report to the 4th respondent that no settlement had been executed by the 2nd petitioner in favour of the Commissioner, Arni. Therefore, he had no objection for granting patta to an extent of 0.09 Acres in S.No.102/2. No objection certificate had been granted to give pata in favour of 2nd petitioner to the total extent of 1.18 acre in S.No.102/2. Even Sub Registrar, Arni also given a report to the Commissioner of Arni dated 13.05.2010 that no documents available on record with regard to settlement in favour of Commissioner in the year 1960. On 26.05.2010 the Commissioner, Arni had stated no objection for granting patta.

3. Based upon the report given by R.D.O, 2nd respondent has passed order dated 08.11.2010 stating that originally Irumpedu Village was there as a Arni Jagir Jain estate and the same was taken by the Government, after completion of measurement as per Revenue Tax, (A) Register had been introduced on 31.08.1961. As per the old records, land available in Irumbedu Village is 14234.32 Acres. The 2nd petitioner had shown the total extent of land as 13.10.10 Acres. Over all to an extent of 124.22 Acres had been reduced. Hence all the owner of property lost their land to certain extent. Finally 2nd respondent had come to a conclusion that the patta to an extent of 0.09 Acres cannot be changed.

4. The learned counsel for the petitioners submitted that the 2nd petitioner has made an application on 14.09.2009 for correction of the extent as 1.18 Acre and the same has not been corrected. The Revenue Divisional Officer, Cheyyar has rejected the said application on 08.11.2010, as it is not feasible to

consider. Challenging the aforesaid impugned order, the petitioners have filed the present Writ Petition before this Court.

5. A counter affidavit has been filed by the 2nd respondent stating that the 2nd petitioner had purchased a land for an extent of 1.18 acres in the year 1955 in Irumbedu Village, Arni Taluk. In the year 1961, by abolishing Zamin Estate System, a proper survey has been conducted and the lands were given patta to the eligible land owners. As per the settlement conducted Old S.Nos.201/1 & 201/2 were clubbed as 102/2 and an extent of 1.09 acres were given as patta in the name of 2nd petitioner's wife Tmt.Baby and an extent of 0.11.5 Hec. has given patta in S. No.102/1 in the name of President, North Arcot Zilla Board. The petitioners did not object the same at that time.

6. Subsequently, in the year 1984, during UDR, the pattas were granted in the name of the 2nd petitioner as per patta No.804 to the extent of 1.09 Acres in S.No.102/2 and the extent of 0.11.5 Hecters (0.28 Acres) stands in the name of the Panchayat, Irumbedu Village, Arni Taluk in Patta No.1420. Even after completion of UDR and issue of patta to an extent of 1.09 Acres, the petitioners did not object about the said extent.

7. According to the learned Government Advocate, the 2nd petitioner has filed an application dated 14.09.2009, for rectification of the extent (0.09 Acres) granted to the petitioner, after lapse of 48 years of settlement and after a lapse of 25 years from the UDR. The commissioner, Arni Panchayat Union has stated only that there is no settlement given by the petitioners to Panchayat, but, no objection certificate has not been given in favour of the petitioners for an extent of 0.09 Acres. Since several pattadars had been in the possession of the extent of said S.No.102/2 in the aforesaid properties, after a lapse of 25 years, the respondents cannot rectify corrections in the records. After perusing the records, the 2nd respondent rightly rejected the said application. Hence the Writ Petition cannot be maintainable.

8. Heard learned counsel for the petitioners and learned Government Advocate and perused the materials available on record.

9. Considering the fact that challenging the impugned order, the petitioners have filed the present writ Petition stating that there is a mistake in the patta to the extent of the land granted to the petitioners and the said defects have not been rectified by the Revenue Authority. On a careful perusal of the said submissions and records, it is seen that the petitioners have approached the authority concerned after a

lapse of several years. At this stage, this variation to the extent of the property cannot be cured by making such application. It is also seen that several persons have been in possession for several years in the aforesaid property. According to the learned Government Advocate, a proper survey has been conducted and the land has been divided and allotted to each of the persons and granted patta in favour of the individual persons. Any alignment to the said property would create a dispute among various pattadars in the said land.

10. The approach of the Writ Petitioners to the authority concerned by making a representation for rectification of the extent in S.No.102/2 is wholly unjustified. In the aforesaid circumstances, this petition is not maintainable and the same is liable to be rejected.

11. Accordingly, the Writ Petition is dismissed. Consequently, connected miscellaneous petitions are closed. The petitioners can approach the appropriate forum, if it is permissible under law. No costs.

Sd/-
Deputy Registrar

//True Copy//

rkp
To

Sub Assistant Registrar

1. The District Collector,
Thiruvannamalai, Thiruvannamalai District.
2. The District Revenue Officer,
Thiruvannamalai, Thiruvannamalai District.
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Revenue Divisional Officer,
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Thiruvannamalai District.
5. The President,
Irumbedu Village,
Arni Taluk, Thiruvannamalai District.

+lcc to Mr.S.Sugendran, Advocate, S.R.No.86549

+lcc to the Government Pleader, S.R.No.86704

W.P. No.16383 of 2011

SSM(08/01/2019)