

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 27.09.2018

CORAM:

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.15069 of 2008

and

M.P.No.2 of 2008

1. N.Rajeswari
2. L.Suseela
3. T.Manoharan

... Petitioners

Vs.

1. The District Collector,
Thiruvallur District, Thiruvallur.
2. The Revenue Divisional Officer,
Thiruvallur District, Thiruvallur-602 001.
3. The Tahsildar,
Poonamallee Taulk, Poonamallee-600 056.
4. The Commissioner,
Avadi Municipality, Avadi, Chennai-600 054.
5. Thirumalai Naicker
6. Pugazhenthir

... Respondents

For Petitioners: Mr.K.Munusamy

For R 1 to 3: Mr.N.Inbanathan

Additional Government Pleader

Prayer: Writ Petition filed under Section 226 of Constitution of India praying to issue a writ of Mandamus, directing the respondents 1 to 3 to cancel the Patta transferred in favour of the sixth respondent in respect of 1.01 Acre in S.No.458/5 and 0.33 Acres in S.No.458/4, Paruthipattu Village Tk, Poonamallee Thiruvallur District pending disposal of O.S.No.1074 of 2004 on the file of the District Munsif Court, Poonamallee.

ORDER

This petition has been filed by the petitioners to direct the respondents 1 to 3 to cancel the Patta granted in favour of the sixth respondent in respect of 1.01 Acre in S.No.458/5 and 0.33 Acres in S.No.458/4, Paruthipattu Village, Poonamallee pending disposal of O.S.No.1074 of 2004 on the file of the District Munsif Court, Poonamallee.

2. Heard Mr.K.Munusamy, learned counsel appearing for the petitioners and Mr.N.Inbanathan, learned Additional Government Pleader appearing for the respondents 1 and 3.

3. The learned counsel for the petitioners would further submit that the petitioners are represented by one Mr.Rama Ravindrakumar Power Agent for partition of their father's property. Thereafter, Mr.Rama Ravindrakumar has filed a partition suit on behalf of the petitioners in O.S.No.1074 of 2004 before the District Munsif Court, Poonamallee dated 17.11.2004 seeking for half share in the properties described in the said suit. After filing the partition suit, the fifth respondent has executed a sale deed partly in favour of the sixth respondent dated 09.12.2004, 1.01 Acres in S.No.458/5 and 0.33 Acres, in S.No.458/4. Thereafter, the sixth respondent has approached the third respondent for transferring patta in his favour by way of sale deed. In the said suit, the third respondent had received summons from Court on 13.12.2004 and had remained ex-parte on 06.01.2005. Mr.Rama Ravindrakumar has sent a objection letter on behalf of the petitioners to the third respondent/Tahsildar dated 06.12.2005, not to transfer the patta till disposal of the civil suit, which is pending before the Court. But, the third respondent has transferred the patta in favour of the sixth respondent. Hence, Mr.Rama Ravindrakumar has filed an application on behalf of the petitioners before the learned Sub-Court, Poonamallee to implead the sixth respondent as a party in the suit and the same was dismissed by the Trial Court. In this circumstance, the petitioners have come forward with the present petition before this Court.

4. The partition suit in O.S.No.1074 of 2004 is pending before the learned Sub-Court, Poonamallee and during the pendency of the said suit, the fifth respondent has sold the property to the sixth respondent dated 09.12.2004. Pursuant to the sale deed, the sixth respondent had obtained a Patta in his favour. In view of the sale deed granted in favour of the sixth respondent, the relief sought for cancellation of Patta cannot be granted at this stage. The petitioners can approach the Jurisdictional Officer for issuing a fresh Patta incase they succeed in the suit, which is pending before the learned Sub-Court, Poonamallee.

6. In view of the above observation, the writ petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar(CS VIII)

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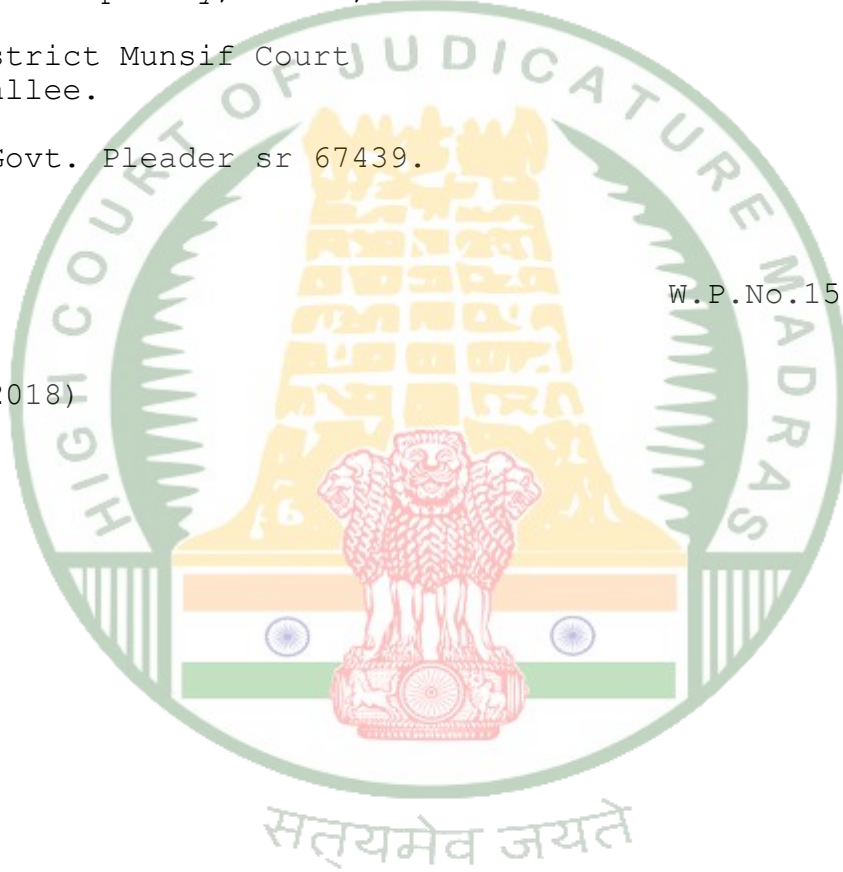
Sub-Assistant Registrar

To

1. The District Collector,
Thiruvallur District, Thiruvallur.
 2. The Revenue Divisional Officer,
Thiruvallur District, Thiruvallur-602 001.
 3. The Tahsildar,
Poonamallee Taulk, Poonamallee-600 056.
 4. The Commissioner,
Avadi Municipality, Avadi, Chennai-600 054.
 5. The District Munsif Court
Poonamallee.
- +1 CC to Govt. Pleader sr 67439.

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SSV(CO)
SP(02/11/2018)



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