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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

Writ Appeal (MD)No.456 of 2018

and

CMP (MD)No.2695 of 2018

1. The District Collector,
Dindigul District.

2. The Revenue Divisional Officer,
Dindigul,
Dindigul District.

3. The Tahsildar,
Nilakottai Taluk,
Dindigul District.

... Appellants

Vs.

1. Kuraisa Beevi (died)
2. S.Nazar
3. S.Ithayathulla

... Respondents

Prayer: Writ Appeal is filed under Clause 15 of Letters Patent Act against the order passed by this Court in W.P.(MD).No.14771 of 2013, dated 09.03.2017.

Prayer in WP (MD). 14771/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records ifn Na.Ka.Nfo.1100/13/A4 dated 19.04.2013 on the file of the 3rd respondent and quash the same as illegala, incompetent and without jurisdiction and further direct the 3rd respondent to grant patta in respect of the property measuring 26 cents of land in Old Survey No.641/6 presently in new Survey No.853/11 comprising of house property in D.No.72/8-2-4 with surrounding vacant space in Oruthattu Village, Ammainaickanur.

For Appellants

: Mr.C.M.Marichelliah Prabhu
Additional Govt. Pleader

<https://hcservices.ecourts.gov.in/hcservices/>

For R2 and R3

: Mr.H.Lakshmi Shankar

J U D G M E N T

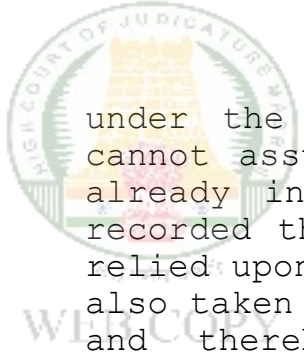
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(Judgment of the Court was made by M.SATHYANARAYANAN,J.)

By consent, the Writ Appeal is taken up for final disposal.

2. The Official respondents in W.P.(MD).No.14771 of 2013 are the appellants. Aggrieved by the order dated 09.03.2017 made in the said writ petition, in and by which the rejection of request made by the petitioner for grant of Patta came to be quashed with the further direction directing the third respondent to grant Patta in favour of the petitioners 2 and 3. The writ petition has been filed by the original writ petitioner and during the pendency of the writ petition, the original writ petitioner died and in his place, the respondents 2 and 3 herein came on record as her legal representatives.

3. A perusal of the materials would disclose among other things that the first respondent / writ petitioner is in possession of the land with the superstructure comprised in Oruthattu Village Natham New Survey No.853/11 (Old Survey No.641/6), admeasuring 26 cents. The insolvency proceedings in I.P.No.5 of 1950, on the file of the Sub Court, Madurai, declaring that Somasundaram Pillai and his brother Chokku Pillai as insolvent and their 13 items of properties are brought for sale and Muthiah Pillai @ Periyathampiya Pillai has purchased 13 items of property and one among them is the property owned by the respondent / writ petitioner. Muthiah Pillai in turn executed a Will in respect of the said properties in favour of his sons viz., Jeyasakthivel, Sudanthiramani and Jeyapaul and the said persons in turn vide registered sale deed dated 22.12.1975, Document No.2706/1975, registered on the file of the Sub Registrar, Nilakottai, has conveyed such property in favour of the respondent / writ petitioner, who after purchase has put up a superstructure on three cents of land and it is also in compliance of Statutory Rules and Regulations and made a repeated request for grant of Patta. The third appellant herein vide impugned order dated 19.04.2013, has rejected the said request, on the ground that as per the Revenue Standing Orders, no Grama Natham land beyond the extent of three cents can be assigned and since the said land is classified as Grama Natham as per the revenue records. The first respondent/writ petitioner made a challenge to the said order of rejection of the third appellant herein, dated 19.04.2013, by filing the writ petition and it was entertained and notices were ordered. The learned Judge, on going through the materials found that the State did not have paramount title to lands classified as Grama Natham and the very object of introduction of the Natham Settlement Scheme was to bring these Natham land under assessment by issuing Patta and



under the guise of the Natham Settlement Scheme, the Government cannot assume itself the power of dispossessing persons, who were already in possession of Natham land. The learned Judge further recorded the finding that the Revenue Standing Orders 21 cannot be relied upon in respect of the lands classified as Village Natham and also taken note of the factual aspect, has allowed the writ petition and thereby quashed the impugned proceedings of the third respondent, with the further direction directing the said Officials to issue Patta to the entire extent of 26 cents of land in Survey No.853/11 to the legal representatives of the original writ petitioner viz., respondents 2 and 3.

4. Mr.C.M.Marichelliah Prabhu, learned Additional Government Pleader appearing for the appellants/Official respondents would contend that as per the village records, the land is classified as Village Natham land and the extent is beyond three cents, no assignment can be given and since the original writ petitioner has sought for Patta in respect of 26 cents, came to be rejected rightly and prays for interference in the writ appeal.

5. Per contra, Mr.H.Lakshmi Shankar, the learned counsel appearing for the respondents / legal representatives of the original writ petitioner would contend that with regard to the title of the original writ petitioner, the issue had attained the finality and the limit of three cents, would apply not in respect of this assignment and whereas, the respondents are the legal representatives of the writ petitioner seeking Patta and as such, there cannot be no impediment for granting Patta and further, the learned Judge has pointed out the factual aspect and rightly reached the conclusion to allow the writ petition and prays for dismissal of this writ appeal.

6. This Court has carefully considered the rival submissions and also perused the materials placed before this Court.

7. A perusal and consideration of the materials would disclose that the landed property of the original writ petitioner along with the other items were brought for sale in Insolvency proceedings in I.P.No.5 of 1950 by the Sub Court, Madurai and Muthiah Pillai had purchased 13 items of property and one among them is the property of the original writ petitioner. Muthiah Pillai in turn has executed a Will in respect of the properties in favour of his sons viz., Jeyasakthivel, Sudanthiramani and Jeyapaul, who in turn conveyed the landed property to an extent of 26 cents in new Survey No.853/11 (Old Survey No.641/6) in favour of the original writ petitioner through registered sale deed bearing Document No.2706/1975 dated 22.12.1975, and it was the claim of issuing Patta for the said land and the writ petitioner also put up a superstructure on three cents of the land and it is also subjected to the Statutory Rules.



8. In the light of the said fact, the title of the original writ petitioner to the property in question *prima facie* appears to have been settled. The only objection raised by the Official respondents is that as per the classification of the said land are continued to be classified as Grama Natham and as per the Revenue Standing Orders 21, any land measuring beyond three cents cannot be the subject matter of the assignment and as such, the Patta sought for by the original writ petitioner for the entire 26 cents cannot be granted. In the considered opinion of this Court that the said stand holding is untenable, for the reason that the original writ petitioner sought Patta only in respect of 26 cents of land and not the assignment and as already pointed out, the right, title and possession of the original writ petitioner as to the property in question *prima facie* appears to have reached the finality. The learned Judge has rightly taken note of the factual aspects and reached the conclusion to pass the impugned order and this Court is of the opinion that there is no error or infirmity on the reasons assigned by the learned judge for allowing the writ petition and finds no merit in the writ appeal.

9. In the result, the Writ Appeal is dismissed, confirming the order dated 09.03.2017 passed in W.P.(MD).No.14771 of 2013. However, there will be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CSIII)

/True Copy/

Sub-Assistant Registrar

+1cc to M/s.H.Lakshmi Shankar, Advocate, SR.No.58089

+1cc to The Special Government Pleader, SR.No.58383

akv

RL/3C/4P/KK/SAR1/25/4/2018

W.A. (MD) .No.456 of 2018

26.03.2018