

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2019

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.15481 of 2011

- 1.Rajan
- 2.Kumar
- 3.K.Ramasamy Gounder
- 4.Pappusamy
- 5.Sakthivel
- 6.Pappathi
- 7.Narayanasamy

.. Petitioners

vs.

- 1.The District Revenue Officer,
Coimbatore
- 2.The Tahsildar,
Coimbatore South Taluk,
Coimbatore.
- 3.Village Administrative Officer,
Thirumalayapalayam Village,
Coimbatore South Taluk
Coimbatore District.
- 4.Smt.Koniammal

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari calling for the records relating to the impugned proceedings passed in Na.Ka.24966/2010 E1 dated 20.04.2011 and quash the same.

For Petitioner : Mr.K.Goviganesan

For Respondents : Mr.M.Karthikeyan,
Additional Government Pleader
for R1 to R3

Mr.S.Gunalan for R4

ORDER

This Writ petition has been preferred by the petitioners challenging the impugned order passed by the first respondent in Na.Ka.24966/2010 E1 dated 20.04.2011.

2. According to the learned counsel for the petitioners, one Rangammal executed the Settlement Deeds on 21.07.1978, 22.07.1978, 23.07.1978 & 24.07.1978 in favour of petitioners' ancestors and the petitioners are in absolute possession and enjoyment of the said property. He would thereafter submit that 4th respondent attempting to dispossess the petitioners stating that the settlement deeds have been cancelled by the first respondent viz., The District Revenue Officer, Coimbatore. However, the first respondent erroneously cancelled the patta standing in the petitioners name and ordered to include the name of the 4th respondent by the impugned proceedings passed in Na.Ka.24966/2010 E1 dated 20.04.2011. According to him, unless the said settlement deeds executed by Rangammal have been revoked or cancelled before the appropriate forum, the revenue records executed by one Koniymmam cannot be entertained and the same is unsustainable. Hence, this Writ Petition has been filed before this Court by the petitioners.

3. Learned counsel for the respondents would submit that pursuant to the order passed by the 1st respondent, the revenue records have been transferred and mutated in the name of the 4th respondent and therefore, now at this stage, the petitioners can approach the Civil Court for seeking their remedy.

4. By consent of both the parties, the writ petitioners have claimed their right over the property on the basis of the settlement deeds executed by Late Rangammal and the said settlement deeds were not cancelled or revoked before any other forum. Subsequently, the aforesaid land is the same has been transferred in the name of the 4th respondent, pending the Writ Petition. Therefore, if the petitioners claim that they have right over the subject matter of the property on the basis of the settlement deeds, they have to agitate before the concerned Civil Court as to whether the alleged Will executed by the Rangammal in favour of the 4th respondent is genuine or not.

5. In view of the above circumstances, this Writ Petition cannot be entertained as the same is not maintainable. It is left open to the petitioners to file a suit before the concerned jurisdictional Civil Court and seek their remedy. The learned counsel for the petitioner seeks six weeks time to approach the Civil Court and pursue their remedy.

6. Accordingly, the writ Petition stands dismissed with liberty to the petitioners to seek their remedy before the Civil Court within a period of six weeks from the date of receipt of a

copy of this order. The Civil Court has to decide the suit independently without being influenced by any of the observations made by this Court in this order. Consequently connected miscellaneous petition is closed. No costs.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

rkp

To

1.The District Revenue Officer,
Coimbatore

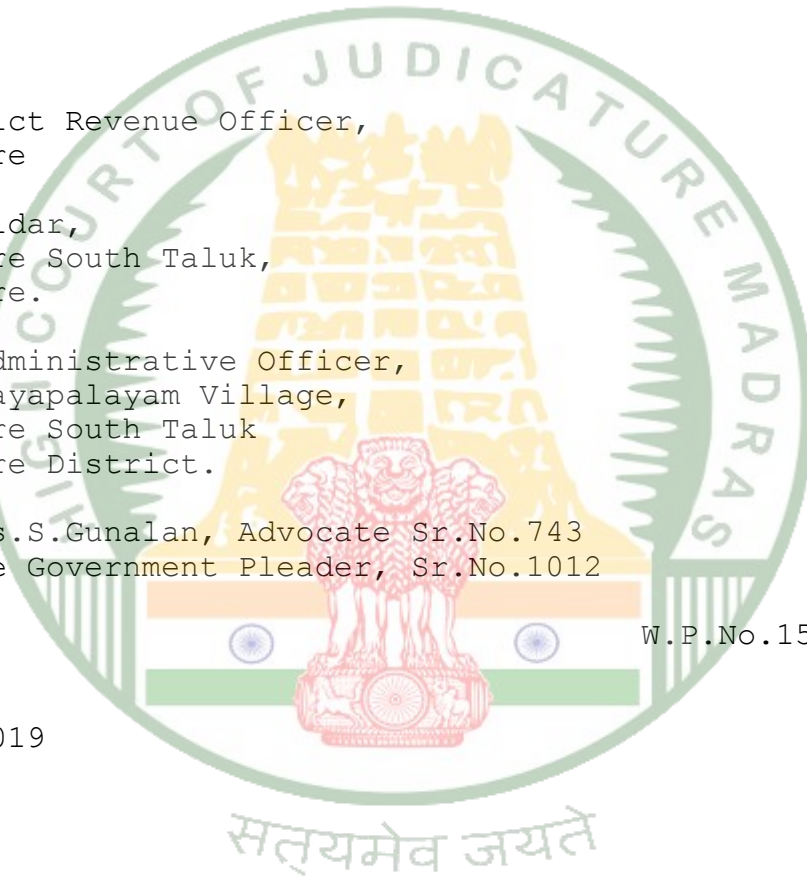
2.The Tahsildar,
Coimbatore South Taluk,
Coimbatore.

3.Village Administrative Officer,
Thirumalayapalayam Village,
Coimbatore South Taluk
Coimbatore District.

+1 cc to M/s.S.Gunalan, Advocate Sr.No.743
+1 cc to The Government Pleader, Sr.No.1012

W.P.No.15481 of 2011

CSL/11.02.2019



WEB COPY