

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.07.2019

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.P.No.27240 of 2008

1.A.Selvaraj
2.Selvambal

..Petitioners

Vs

1. Anbazhagan. S

2. The Tahsildar,
Vridhachalam Taluk,
Vridhachalam.

3. The Revenue Divisional Officer,
Vridhachalam.

4. The District Revenue Officer,
Cuddalore.

.. Respondents

Prayer:

Writ Petition is filed under Article 226 of the Constitution of India, seeking issuance of a writ of certiorarified mandamus, to call for the records in reference Rc.V3/12133/07, dated 29.9.08 on the file of the fourth respondent and quash the same and directing the respondents 2 to 4 to restore the patta for the land in R.S.No.138/8 to an extent of 0.02 acres situated at Elangianoor Village, Nallloor Post, Vridhachalam Taluk, Cuddalore District in the name of the petitioners.

For Petitioners : Mr.J.R.K.Bhavanantham

For Respondents : Mr.J.Kamraj for R1
Mr.B.Anand
Government Advocate for R2 to R4

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O R D E R

Heard the learned counsel for the petitioner, the learned counsel for the first respondent and the learned Government Advocate for the respondents 2 to 4 and perused the materials available on record.

2. This writ petition has been filed for issuance of writ of

certiorarified mandamus, to quash the order dated 29.09.2008 of the fourth respondent vide reference Rc.V3/12133/07 and consequently direct the respondents 2 to 4 to restore patta for the land in R.S.No.138/8 to an extent of 0.02 acres situated at Elangianoor Village, Nalloor Post, Vridhachalam Taluk, Cuddalore District in favour of the petitioners.

3. The case of the petitioners is that the property in dispute was originally owned by Dharmalinga Udayar, by virtue of a registered sale deed dated 14.04.1928. The said Dharmalinga Udayar had settled the property in favour of his second wife Manickammal by way of registered settlement deed dated 29.08.1980. Thereafter, by a registered Will dated 13.07.1994, Selvambal, the second petitioner herein, who is the daughter of Manickammal's brother derived the title. Since then they have been in possession and enjoyment of the property.

4. The case of the first respondent is that the property in question was originally owned by one Veeramuthu Achari and his elder brother's wife Sundrammal. Thereafter, the property was devolved on Kaliaperumal S/o.Veeramuthu Achari and the said Kaliaperumal released his right in favour of the first respondent.

5. It seems that the second respondent Tahsildar, Vridhachalam issued patta in favour of the first respondent in respect of the property in question. Thereafter, the petitioners sought for transfer of patta in their favour, which was allowed by the Tahsildar, Vridhachalam on 17.04.2006. As against the order of the Tahsildar, the first respondent preferred an appeal and the same allowed by the Revenue Divisional Officer, Vridhachalam on 24.01.2007. By an impugned order dated 29.9.2008 the District Revenue Officer, Cuddalore confirmed the order of the Revenue Divisional Officer.

6. Mr.J.R.K.Bhavanantham, learned counsel for the petitioners would submit that the petitioners have abundant materials to show that the property was originally owned by Dharmalinga Udayar, but, the fourth respondent without providing an opportunity passed the impugned order and stating that no documents were produced in support of the case of the petitioners.

7. Mr.J.Kamraj, learned counsel for the first respondent would submit that patta was originally standing in the name of the first respondent and if the petitioners are claiming right or title over the property, they have to approach the Civil Court for appropriate remedy as the Revenue Officials have no authority to decide the title of the property.

8. It is contended by the learned Government Advocate appearing for the respondents 2 to 4 that though the petitioners were provided sufficient time, but no records were forthcoming in support of their case.

9. It is seen from the documents annexed in the typed set of papers filed in the writ petition that the said Dharmalinga Udayar had settled the property in favour of his second wife Manickammal through a registered deed dated 29.08.1980. Subsequently, a suit in O.S.No.1261 of 1992 came to be filed by the said Manickammal and the same was also entered into compromise.

10. In the light of the above facts, this Court is of the considered opinion that the order impugned in this writ petition is liable to be quashed. Accordingly, it is set aside and the matter is remitted back to the fourth respondent, who shall dispose of the revision preferred by the petitioners on merits and in accordance with law, after providing ample opportunity to all necessary parties.

11. With the above observation, the writ petition stands allowed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Tahsildar,
Vridhachalam Taluk, Vridhachalam.
2. The Revenue Divisional Officer, Vridhachalam.
3. The District Revenue Officer, Cuddalore.

+1cc to Mr.J.Kamraj, Advocate, S.R.No.60313
+1cc to Mr.J.R.K.Bhavanantham, Advocate, S.R.No.60309
+1cc to the Government Pleader, S.R.No.60696

W.P.No.27240 of 2008

SV(CO)
CS/18/09/2019