

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P. No.21738 of 2010
and M.P. No.2 of 2010

1.Chidambaram

2.Senthil Raj

3.Kavitha

4.Renuka

5.Revathi

.. Petitioners

Petitioners 2 to 5 are represented through their
power agent, the 1st petitioner herein

-vs-

1.District Revenue Officer,
Perambalur District,
Perambalur.

2.Revenue Divisional Officer,
Perambalur District,
Perambalur.

3.The Tahsildhar,
Perambalur.

4.Selvaraj

5.Boopalan

6.Saroja

7.Rajamani

.. Respondents

Prayer: Petition filed under Article 226 of the
Constitution of India, praying for the issue of a Writ of
Certiorarified Mandamus to call for the records on the file of
the respondents 1 and 2 in his proceedings Na.Ka.A2/18120/2007
and dated 18.08.2010 and in Proceedings Na.Ka.A4/3904/2005 and
dated 07.03.2007 respectively and quash the same as illegal,

incompetent and without jurisdiction and restore the order of the Tasildhar in granting joint patta in the names of the legal heirs of Nallusami.

For Petitioners : Mr.V.Raghavachari

For Respondents : Mrs.P.Rajalakshmi,
Additional Government Pleader
for R1 to R3

ORDER

The petitioners have filed the writ petition challenging the impugned proceedings dated 18.08.2010 and 07.03.2007 in Na.Ka.A2/18120/2007 and Na.Ka.A4/3904/2005 issued by respondents 1 and 2 respectively.

2.Learned counsel appearing for the petitioners submitted that originally the property in question belonged to one Nallusamy, who is the father in law of the first petitioner and the father of one Soundiram, the wife of the first petitioner, Selvaraj, Boopalan, Saroja and Rajamani, respondents 4 to 7. After his demise, the said Soundiram made an application seeking joint patta including the names of all the above five children as his legal heirs before the Tahsildhar, Perambalur, the third respondent herein, who has transferred the patta in favour of all the legal heirs by issuing joint patta. Aggrieved by the order passed by the third respondent, respondents 4 and 5 made an appeal before the second respondent stating that their father has executed a Will dated 06.01.1997 in their favour. Without considering the claim made by the petitioners, the Revenue Divisional Officer, Perambalur District, the second respondent herein had cancelled the joint patta stood in the name of all the legal heirs of the deceased Nallusamy. As against the said order, the petitioners preferred a revision before the District Revenue Officer, Perambalur District, the first respondent herein stating that no enquiry had been conducted by the second respondent herein, but, without considering the same, the first respondent has confirmed the order passed by the second respondent in cancelling the order passed by the third respondent. Challenging the same, the petitioners are before this Court seeking the above prayer.

3.Learned counsel appearing for the petitioners would submit that even in the Will dated 06.01.1997, the Testator of the Will namely, late Nallusamy, has specifically mentioned that the lands in question are all ancestral properties. As the joint patta has been rightly issued by the third respondent showing the names of the son and daughter of Nallusamy, the same should not have been reversed by respondents 1 and 2. Therefore, the impugned order is liable to be interfered with.

4.Reiterating the averments made in the counter affidavit, learned Additional Government Pleader appearing for respondents 1 to 3 would submit that the first respondent, having found that the properties are originally owned by Nallusamy Gounder and that both parties have failed to produce any documentary evidence to show that whether the properties are ancestral one or purchased by the said Nallusamy from and out of his own income, has set aside the order passed by the third respondent and thereby, confirmed the order passed by the second respondent, dismissing the Revision preferred by the petitioners.

5.I also fully agree with the submissions made by the learned Additional Government Pleader appearing for respondents 1 to 3. It is seen from the records that both the parties have failed to produce any documentary evidence to show as to whether the properties are ancestral one or purchased by the said Nallusamy from and out of his own income. Therefore, without there being any evidence, the first respondent has confirmed the order passed by the second respondent, dismissing the Revision preferred by the petitioners. As found by the first respondent, without there being any documentary evidence, the petitioners cannot question the cancellation of joint patta. Secondly, as per the recitals in the said Will dated 06.01.1997, the three daughters of Nallusamy, namely, Soundiram, Saroja and Rajamani were excluded from acquiring the property of the said Nallusamy. Accordingly, the writ petition fails and the same is dismissed. Consequently, connected M.P. is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vga

To

- 1.The District Revenue Officer,
Perambalur District,
Perambalur.
- 2.The Revenue Divisional Officer,
Perambalur District,
Perambalur.
- 3.The Tahsildhar,
Perambalur.

+2cc to Mr.V.Raghavachari, Advocate SR.79833, 79835
+1cc to the Government Pleader SR.79674

W.P. No.21738 of 2010
and M.P. No.2 of 2010

PA (CO)
CB(07/11/2019)



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