IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.08.2019

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.P.Nos.6363 & 6364 of 2010
&
M.P.Nos.1 & 1 of 2010

V.Rajamani ..Petitioner in W.P.No.6363/2010

Chinnamoorthy Ammal ..Petitioner in W.P.No.6364/2010

Vs

1.The District Revenue Officer,
Villupuram District,
Villupuram.

2.The Revenue Divisional Officer,
Villupuram.

3.The Tahsildar,
Vanur Taluk,
Vanur.

4.K.Janakiraman ..Respondents in both WPs

Prayer in both WPs: Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorari calling for the records of the 1st respondent in his proceedings in na.Ka.Aa7/40466/06 (TRP No.23/2008) dated 01.03.2010 and quash the same.

For Petitioner : Mr.N.Suresh
(in both Wps)

For Respondents : Mr.I.Sathish, AGP for R1 to R3
(in both Wps) Miss.J.Prithvi for R4

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COMMON ORDER

Heard Mr.N.Suresh, learned counsel for the petitioners, Mr.Mr.I.Sathish, learned Additional Government Pleader for respondent Nos.1 to 3 and Mr.J.Prithvi, learned counsel for respondent No.4 and perused the materials available on record.

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2. These writ petitions have been filed assailing the order of the first respondent dated 01.03.2010 wherein the patta issued in favour of the petitioners were transferred in the name of the fourth respondent.

3. In respect of the properties in S.No.126/3 Bommaiyaarrpalayam, Vanur Taluk, Villupuram District, patta was issued in the name of the petitioner in W.P.No.6363 of 2010 viz., Rajamani. Since the said Rajamani sold a portion of the property in favour of the petitioner in W.P.No.6364 of 2010 viz., Chinnamoorthy Ammal through a sale deed, patta for the said portion was transferred in favour of the said Chinnamurthy Ammal. However, on the basis of the ex parte decree passed in O.S.No.39 of 2004 on the file of the District Munsif cum Judicial Magistrate, Vanur, transfer of patta in the name of the fourth respondent was ordered by the Revenue Divisional Officer, Villupuram.

4. Mr.N.Suresh, learned counsel for the petitioner would submit that pattas standing in the name of the petitioners were transferred in the name of the fourth respondent in view of the exparte decree passed in O.S.No.39 of 2004. Later, the exparte decree was set aside and the suit itself came to be dismissed on 31.08.2017. He further added that during the pendency of the writ petition, one of the petitioners viz., V.Rajamani executed a settlement deed in favour of his wife Varalakshmi and thereafter, the said Varalakshmi and Chinnamoorthy Ammal instituted two suits in O.S.Nos.58 and 59 of 2007 on the file of the District Munsif cum JudicialMagistrate, Vanur and after contest, the suits were decreed on 20.07.2011 and as against the decision, appeals were filed in A.S.No.13 of 14 of 2011 before the first Additional District Judge, Thindivanam. The appeals were dismissed confirming the judgment of the trial Court. Challenging the same, the fourth respondent has preferred two Second Appeals in S.A.Nos.470 and 471 of 2017 before this Court and they are pending.

5. It is the submission of the learned counsel for the petitioners that since the title of the property was already declared in favour of the petitioners by the competent Civil Court, the patta has to be transferred in the name of the petitioners.

6. Miss.J.Prithvi, the learned counsel for the fourth respondent would state that the issue with regard to the title over the property is admittedly pending in S.A.Nos.470 and 471 of 2017, so till it is finally decided, revenue records need not be altered.

7. Mr.I.Sathish, learned Additional Government Pleader would submit that parties can wait for the result in the Second Appeals.

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8. In the matter on hand, it is not disputed that pattas issued in favour of the petitioners were transferred only on the basis of the ex parte decree in O.S.No.39 of 2004, but eventually the suit came to be dismissed after contest. Considering the fact that the suit filed by the petitioners for declaration of title has been decreed and appears therefrom is pending in S.A.Nos.730 and 731 of 2017, this Court is of the opinion that it would be appropriate to direct the third respondent to transfer patta in the name of the petitioners in the interregnum.

9. In such view of the matter, this Court directs the third respondent to transfer patta in the name of the petitioners. However, the transfer of patta is subject to the result of the Second Appeals in S.A.Nos.470 and 471 of 2017 on the file of this Court.

10. Accordingly, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

1.The District Revenue Officer,
Villupuram District,Villupuram.

2.The Revenue Divisional Officer,
Villupuram.

3.The Tahsildar,
Vanur Taluk,Vanur.

+1cc to Mr.N.Suresh, Advocate, S.R.No. 73199
+1cc to Mr.A.K.Kumarasamy, Advocate, S.R.No. 72285
+1cc to the Government Pleader, S.R.No. 72725

W.P.Nos.6363 & 6364 of 2010
&
M.P.Nos.1 & 1 of 2010

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