

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :24.02.2020

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.13538 of 2016
and
WMP.Nos.11869 & 17206 of 2016

1. S. Krishnamurthy
2. S. Muthusamy
3. S. Gopal
4. Shanmugam
5. Venugopal

6. Smt. Ezhilarasi
[Petitioners 1 to 6 are represented by their
Power Agent]
7. N.Veerappan ...Petitioners

-vs-

1. The District Revenue Officer,
District Collector Office,
Kancheepuram.
2. The Revenue Divisional Officer,
Chengalpet.
3. The Tahsildar,
Tiruporur Taluk,
Kancheepuram District.

4. Mrs. S. Vijaya
5. Mr. S.Naresh
6. Mr. Abel
7. Mr. Chockalingam
8. Mr. Elangovan
9. Mrs. S. Kavitha
10. Mr. D. Karthi
11. Mrs. Lavanya
12. Mr. R. Loganathan
13. Mr. Murugan
14. Mr. S. Naresh
15. Mr. Kamesh
16. Mrs. Santha Gowri
17. Mr. Suresh

18. Mrs. K. Parimala
19. Mrs. S. Padmavathi
20. Mrs. Santha
21. Mrs. Hemalatha Kanmani
22. Mr. Ravindrakumaran
23. Mr. Lokeshwaran
24. Mrs. M. Santhagowri
25. Mr. V. M. Prakash
26. Mrs. V.M. Dharmaprabha
27. Mrs. V.M. Sasiprabha

...Respondents

[Respondents 20 to 23 and respondents 24 to 27 are substituted as the respondents as legal heirs of the deceased respondents 7 and 13 respectively on record vide order in WMP.No.33733 of 2019 dated 24.02.2020]

PRAYER :

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified, calling for the records relating to the proceedings of the 1st respondent in Na/Ka/27450/14/N4 dated 20.01.2016 and quash the same.

For Petitioners : Mr. S.Parthasarathy
Senior Counsel for
M/s. Vasanthakumar Visweswaran

For Respondents: Mr.N. Srinivasan
Additional Govt. Pleader [R1 to R3]
Mr.K.V.Bhashyam Chari [R4]
Mr.K.Ilango [R5 & R15]
Mr.K.Navaneetha Krishnan [R9]
Mr.J.D.Srikanth Varma
for Mr.K.Venkata Subramanian
[RR6,8,10,11,12,17, 18]
Mr.M.Muthukannan [R24 to R27]

O R D E R

Heard Mr.S.Parthasarathy, assisted by Mr.Vasanthakumar Visweswaran, learned counsel for the petitioners, Mr.N. Srinivasan, learned Additional Government Pleader for the respondents 1 to 3, Mr.K.V. Bhashyam Chari, learned counsel for the 4th respondent, Mr.K. Ilango, learned counsel for the respondents 14 and 15, Mr.K.Navaneetha Krishnan, learned counsel for the 9th respondent, Mr.J.D. Srikanth Varma, for Mr.K.Venkata Subramanian, learned counsel for the respondents 6, 8, 10, 11, 12, 17 and 18 and Mr. M.Muthukannan, learned counsel for the

respondents 24 to 27.

2. With the consent of learned counsel on either side, this writ petition itself is taken up for final disposal.

3. The petitioners have filed this writ petition challenging the order passed by the 1st respondent dated 20.01.2016. By the impugned order, the 1st respondent set aside the order passed by the 2nd respondent dated 09.10.2014, by which, the 2nd respondent directed that the names of the petitioners should be included in the patta in respect of the land comprised in S.No.188 of Navalur Village, Tiruporu Taluk, Kancheepuram District measuring an extent of 4 acres and 18 cents.

4. The petitioners' case is that their power agent one N.Verrappan had submitted a petition to the 2nd respondent stating that the names of the private respondents herein have been illegally included in the patta and he is the power agent, who is representing the legal heirs of the original owner namely Kumarasamy Gramini and the patta has to be cancelled and the petitioners names should be entered in the patta. Admittedly, the petitioners, through their power agent, did not approach the Tahsildar by way of petition for correcting any mistake in the revenue records. It is pre-requisite in terms of Section 10 of the Tamil Nadu Patta Pass Book Act, 1983 (hereinafter referred to 'the Act'), if no order has been passed by the Tahsildar, then the 2nd respondent could have entertained any petition styled as an appeal petition under Section 12 of the Act. Therefore, the fundamental basis, on which, the petition was entertained by the 2nd respondent is wholly erroneous and absolutely illegal.

5. Secondly, it is seen that the 2nd respondent made a roving enquiry into the matter and interpreted the document and stated that the case of the petitioners, represented by their power agent N. Veerappan, is sustainable. The petition given by the 4th respondent herein before the 2nd respondent was not considered. Furthermore, after 113 years, the entries were made in the revenue records, the petitioners have attempted to change the revenue records. In fact, the 12th respondent's petition before the 2nd respondent was that the petitioners and their power agent are land grabbers. Though such contention was raised, the 2nd respondent passed an order in favour of the petitioners. The private respondents rightly preferred revision petition to the 1st respondent and it is heartening to note that the 1st respondent rightly understood the legal position and held that after 113 years, such corrections cannot be made in the revenue records.

6. Further, all the factual details have been noted by the 1st respondent and he has rightly observed that the 2nd respondent has no jurisdiction to entertain such request for mutation of the revenue records after a period of 113 years. Thus, it is evidently clear that the 2nd respondent abused his power by passing the order in favour of the petitioners for the reasons best known to him. It is submitted by the learned Senior Counsel for the petitioners that if the Court is not convinced with the subject matter then the petitioners should be permitted to approach the Civil Court and none of the findings in these proceedings should be a bar for the petitioners to agitate their rights before the Civil Court.

7. Such a liberty or observation cannot be granted in this writ petition for more than one reason. Firstly, the petitioners have to establish that they are the legal heirs or grand legal heirs of the original owner of the property. This cannot be done after a period of 113 years. Furthermore, it is seen that the entire area has been developed into a lay out, though unapproved, has sold into plots, pattas have been granted in favour of the purchasers and then there have been several subsequent transactions, which have been clearly set out by the 1st respondent in the counter affidavit dated 23.01.2019.

8. Thus, it is evidently clear that the attempt made by the petitioners is to grab the property and the 2nd respondent has fallen prey to the said proceedings. Therefore, this Court cannot grant any relief or any observation in favour of the petitioners.

Thus, for all the above reasons, the writ petition fails and stands dismissed. No costs. Connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The District Revenue Officer,
District Collector Office,
Kancheepuram.

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2. The Revenue Divisional Officer,
Chengalpet.

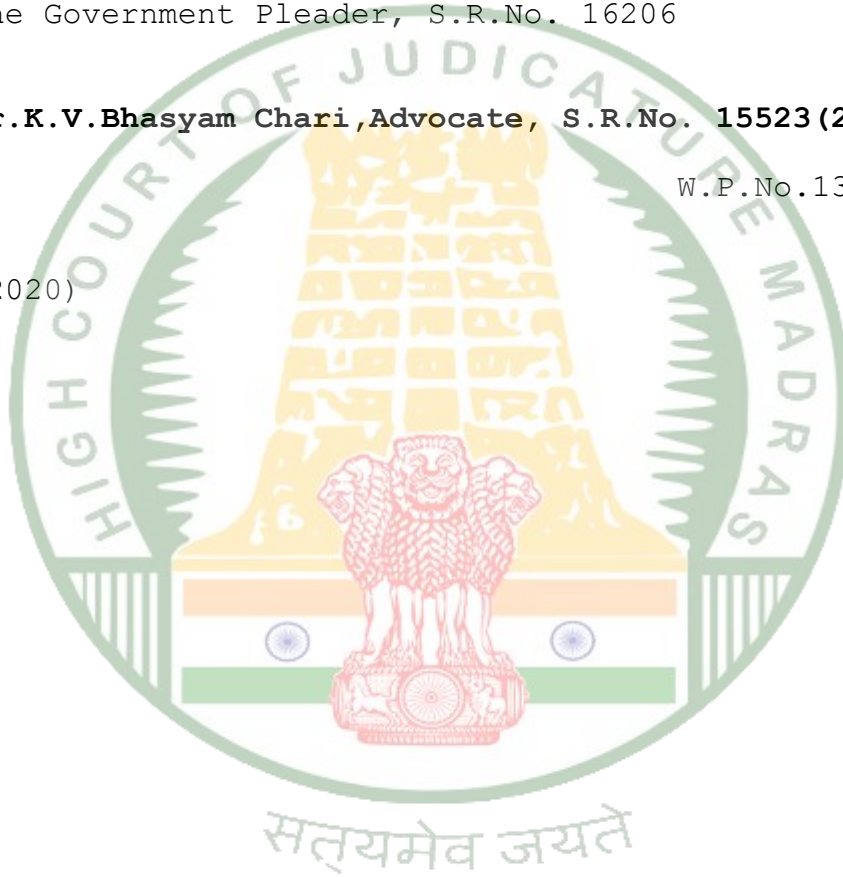
3. The Tahsildar,
Tiruporur Taluk,
Kancheepuram District.

+1cc to Mr.K.Elango, Advocate, S.R.No. 16565
+1cc to Mr.K.V.Bhasyam Chari, Advocate, S.R.No. 15523
+1cc to Mr.K.Ilango, Advocate, S.R.No.15910
+1cc to Mr.M.Muthukannan, Advocate, S.R.No. 1591
+1cc to Mr.S.Venkata Subramanian Advocate, S.R.No. 15938
+1cc to the Government Pleader, S.R.No. 16206

+1cc to Mr.K.V.Bhasyam Chari, Advocate, S.R.No. 15523 (28/09/2020)

W.P.No.13538 of 2016

SR(CO)
GN(01/07/2020)



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