

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2020

CORAM:

THE HON'BLE MR. JUSTICE T.S.SIVAGNANAM

W.P.No.15263 of 2016

1.V.S.Duraisamy
2.Kanagaraj
3.Gunasekaran

.. Petitioners

Vs

1.The District Revenue Officer,
Erode District,
Collectorate Building,
Erode-638011.

2.The Revenue Divisional Officer,
Erode Revenue Division,
Brough Road, Erode - 638001.

3.The Tahsildar,
Taluk Office, Erode Taluk,
Erode District.

4.The Zonal Deputy Tahsildar,
Erode Taluk,
Erode District.

5.Ponnusamy
6.A.T.Mohanraj
7.Subha
8.Paramasivam

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari to call for the relevant and connected records relating to the impugned order passed by the proceedings on the file of the first respondent in Pa.Mu.25858/2014/Vu1, dated 24.11.2014 and to quash the same.

For Petitioners
For R1 to R4
For R7
For R5 & R6

: Mr.C.E.Pratap
: Mr.M.D.Ilayaraja, GA
: Mr.S.Chandrasekaran
: No Appearance (left)

ORDER

Heard Mr.C.E.Pratap, learned counsel for the petitioner, Mr.M.D.Ilayaraja, learned Government Advocate appearing for the respondents 1 to 4, and Mr.S.Chandrasekaran, learned counsel appearing for the seventh respondent.

2. The petitioners seek for issuance of a writ of certiorari to quash the order passed by the first respondent dated 24.11.2014 rejecting the petitioners' appeal petition challenging the order passed by the second respondent, by which, the objection given by the petitioners for inclusion of the name of the sixth respondent as joint pattathar in respect of the property in Survey No.133 to an extent of 1.50 acres was rejected.

3. It is seen from the records placed before the Court that the petitioners have been raising objections to the authorities not to entertain any request for inclusion of the name of the sixth respondent in the patta, which is a joint patta of three petitioners. In fact, the petitioners have specifically mentioned the name of one Mr.Ponnusamy, retired Village Administrative Officer of Aval Poondurai 'A' Village, who has alleged to have committed illegality and included the name of the sixth respondent as joint pattathar along with the petitioners.

4. Learned counsel for the petitioners has drawn the attention of the Court to a patta transfer application made by the sixth respondent, from which, I find that all the relevant details have not been filled up and it is not clear as to whether the document number of the alleged Will dated 27.07.2000 is correct or not. In any event, the petitioners have filed an appeal to the first respondent as against the order passed by the second respondent dated 11.09.2014. In the appeal petition, a specific ground was raised by the petitioners that the alleged sale deed dated 27.10.1979 is a forged and fabricated document. The petitioners have specifically stated that in the year 2013 only, the petitioners came to know that the name of the sixth respondent has been included in the patta to an extent of 1.50 acres. Therefore, immediately on 26.09.2013, the petitioners have given objection including the objection given earlier. Though such specific ground was raised in the appeal petition, I find that in the impugned order passed by the first respondent, the said issue has not been adjudicated.

5. Admittedly, the Revenue Authorities cannot adjudicate as to whether the document is a forged and fabricated one and whether the signatures are genuine or not. All that the Revenue Authorities can do is to prima-facie examine the

documents produced by a claimant requesting for grant of patta or inclusion of the name in the joint patta. If there is serious dispute regarding the title to the property and validity of the documents, then the first respondent should have directed the party, namely, sixth respondent to approach the Civil Court. However, without taking note of the objections in its entirety, the first respondent has passed the impugned order.

6. Though the sixth respondent has been impleaded as a party in the writ petition, he is no longer interested in the matter, because, he has sold the property to the seventh respondent who is contesting the case. Therefore, his case has to stand or fall along with the case of the sixth respondent. Thus, considering the serious allegations made by the petitioner with regard to the veracity and validity of the alleged sale deed dated 27.10.1979, the Court is of the view that the first respondent should consider such objection and on being prima-facie satisfied with the case made out, the only option left would be to ask the seventh respondent to approach the Civil Court to get the title declared.

7. Thus, for all the reasons stated above, this Court is inclined to remand the matter to the first respondent for fresh consideration. In the result, the writ petition is allowed and the impugned order dated 24.11.2014 passed by the first respondent is set aside and the matter is remanded back to the first respondent for fresh consideration. The first respondent shall issue notice to the petitioner and the respondents 6 to 8 and hear the parties or their representatives in person and go through all the documents and pass speaking orders on merits and in accordance with law. The above direction shall be complied with by the first respondent within a period of twelve (12) weeks from the date of receipt of a copy of this order. The respondents 1 to 3 are directed to delete the name of the sixth respondent from patta and restore the patta to the original position in the names of the petitioners and after hearing the parties as per the above direction, necessary mutation can be done based on the ultimate decision to be taken. However, if the first respondent, on prima-facie examination, finds that there is a dispute regarding the title to the property, then seventh respondent should be directed to approach the Civil Court to get the title declared. No Costs. W.M.P.No.13315 of 2016 is closed.

Sd/-

Assistant Registrar

// True Copy//

Sub Assistant Registrar

rkm

To

- 1.The District Revenue Officer,
Erode District,
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Erode-638011.
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- 3.The Tahsildar,
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Erode District.
- 4.The Zonal Deputy Tahsildar,
Erode Taluk,
Erode District.

+1cc to Mr.S.Chandrasekaran, Advocate, SR.No.17709.
+1cc to Mr.C.E.Pratap, Advocate, SR.No.15044.
+1cc to Government Pleader, SR.No.15140.

PP(CO)
CSR: 13.03.2020

W.P.No.15263 of 2016



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