

In the High Court of Judicature at Madras

Dated : 05.3.2020

Coram

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.24932 of 2015

1.K.Chandra Sekaran

2.Tmt.Gomathi

3.Tmt.Akalya

...Petitioners

Vs

1.The Commissioner of Land
Administration, Chennai-5.

2.The District Revenue Officer,
Tiruvallur, Tiruvallur District.

3.The Revenue Divisional Officer,
Ponneri, Tiruvallur Taluk,
Tiruvallur District.

4.The Tahsildar, Gummidipoondi
Taluk, Tiruvallur, Tiruvallur District. ...Respondents

PETITION under Article 226 of The Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to orders in letter No.K4/20609/2013 dated 24.9.2014 of the first respondent confirming the orders passed by the Thasildar, the Revenue Divisional Officer and the District Revenue Officer vide proceedings dated 10.7.2008, 17.11.2009 and 09.7.2010 respectively, quash the same and thereby direct the respondents herein to grant patta in the names of the petitioners in respect of an extent of 95.74 acres in Survey No.239/part, Thevoy Kandigai Village, Gummidipoondi Taluk, Tiruvallur District.

For Petitioners : Mr.A.R.Suresh

For Respondents : Mrs.Madhumathi, SGP

ORDER

I have the learned counsel for the parties.

2. The writ petition has been filed challenging an order passed by the first respondent dated 24.9.2014 confirming the

orders passed by the Tahsildar, the Revenue Divisional Officer and the District Revenue Officer respectively dated 10.7.2008, 17.11.2009 and 09.7.2010 and for a consequential direction to grant patta in the names of the petitioners in respect of the lands in question.

3. The petitioners' case rests upon an order passed by the Settlement Tahsildar, Chengalput dated 08.2.1969. The petitioners claim that they are the legal heirs of one Mr.Subbarayulu Naidu and one Mrs.Pappammal, W/O the said Mr.Subbarayulu Naidu and that they were entitled to grant of patta in respect of part of the land comprised in S.F.No.239, Thevoy Kandigai Village, Chengalput District.

4. The petitioners applied for grant of patta and it was rejected by the fourth respondent by order dated 10.7.2008. The petitioners preferred an appeal, a revision and also a second revision before respondents 3, 2 and 1 respectively and they were all rejected and a concurrent finding was rendered against the petitioners holding that they were not entitled for grant of patta. It has been stated in the impugned orders that the land has been classified as grazing ground poramboke pursuant to the order passed by the Settlement Tahsildar, Chengalput dated 28.1.1969 whereas the petitioners' claim is based upon another order passed by the same Settlement Tahsildar, Chengalput dated 08.2.1969.

5. The fourth respondent, while rejecting the petitioners' claim for grant of patta, observed that the Settlement Tahsildar has no jurisdiction to review or revise his own order passed earlier. This finding is legally sustainable because the power of review can be exercised only if it is granted under the Statute and no authority can assume power of review on himself/herself. The power of review, being a statutory power, needs to be conferred on the authority. However, there is no such power conferred on the Settlement Tahsildar under the relevant Statute. Therefore, the Settlement Tahsildar could not have passed an order on 08.2.1969 with regard to one of the survey numbers whereas in the earlier order dated 28.1.1969, several lands were covered.

6. One more hurdle, which the petitioners have not been able to cross, is to establish before the Tahsildar, the Appellate Authority and the Revisional Authority that they are the legal heirs of the said Mr.Subbarayulu Naidu and the said Mrs.Pappammal. Thus, all the Authorities have concurrently considered all the submissions made by the petitioners and rejected their claim on the aforesaid two grounds.

7. Apart from that, the Authorities rightly noted that the petitioners made a claim after a period of 40 years and this is sought to be explained by the learned counsel for the petitioners by contending that the petitioners were away from the district. This can hardly be accepted to be an explanation for the inordinate delay. This Court finds that there is no error in the orders passed by the respondents. If, according to the petitioners, the order dated 08.2.1969 is sustainable and it is a valid order de hors the order dated 28.1.1969, the relief to be sought for by the petitioners is before a different forum and filing of a writ petition is not an appropriate remedy. In the absence of any error in the decision making process, this Court is not inclined to interfere with the impugned orders.

8. Accordingly, the writ petition is dismissed. No costs.

9. However, it is left open to the petitioners to approach the appropriate forum for necessary relief.

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

To

- 1.The Commissioner of Land Administration, Chennai-5.
- 2.The District Revenue Officer, Tiruvallur, Tiruvallur District.
- 3.The Revenue Divisional Officer, Ponneri, Tiruvallur Taluk, Tiruvallur District.
- 4.The Tahsildar, Gummidipoondi Taluk, Tiruvallur, Tiruvallur District.

+1CC to Mr.A.R.Suresh, Advocate (SR.No.20032)

+1CC to the Government Pleader (SR.No.20230)

WP.No.24932 of 2015

CP (CO)

BRI (20/05/2020)