

In the High Court of Judicature at Madras

Dated : 21.1.2020

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.30606 of 2017 & WMP.No.32247 of 2018

1.M.Devanathan  
2.K.M.Jayavelu

...Petitioners

Vs

1.The District Collector, Vellore  
District, Vellore.

2.The Revenue Divisional Officer,  
Ranipettai, Vellore District.

3.The Tahsildar, Arakkonam Taluk,  
Vellore District.

4.The Sub-Registrar, District  
Registrar's Office, Arakkonam,  
Vellore District.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing the third respondent to conduct enquiry under the Patta Pass Book Act with respect to the removal of names of the joint pattadhars illegally included in patta No.1481 with respect to survey No.642/1 of Minnal Village, Arakkonam Taluk as per the direction of the second respondent dated 18.8.2017 by issuing notice to the petitioners.

For Petitioners : Mr.K.Sivakumar

For Respondents : Mrs.A.Sri Jayanthi,  
Special Government Pleader

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ORDER

I have heard Mr.K.Sivakumar, learned counsel for the petitioners and Mrs.A.Sri Jayanthi, learned Special Government Pleader appearing for the respondents.

2. The petitioners seek a direction to the third respondent to conduct an enquiry under the Patta Pass Book Act and remove

the names of joint pattadhars, whose names, according to the petitioners, have been illegally included in patta No.1481 in respect of Survey No.642/1, Minnal Village, Arakkonam Taluk.

3. The case of the petitioners is that the land comprised in S.F.No.642/1 measuring an extent of 2.21 acres and other lands are the petitioner's ancestral properties initially owned by the petitioners' great grandfather one Mr.Kuttiappan. It is further stated that patta No.1036 was issued in the name of the said Mr.Kuttiappan, who left behind five sons, one of whom was the petitioners' grandfather one Mr.Kamayyan. The said Mr.Kamayyan passed away leaving behind two sons, of whom, one son by name Mr.Manickam was the petitioners' father, who was also no more. It is also stated that after the demise of the petitioners' father, patta No.1481 was issued in the name of the petitioners and others namely Mr.P.Boopalan, Mr.Devanathan, Mrs.Gowri Ammal and Mr.Jayavelu.

4. According to the petitioners, inclusion of name of the said Ms.Gowri Ammal itself is illegal and therefore, they had given a petition dated 23.11.2016 to the second respondent to delete the name of the said Mrs.Gowri Ammal and include the name of one Mr.P.Krishnan along with the names of the said Mr.P.Boopalan, the said Mr.Devanathan and the said Mr.Jayavelu as the legal heirs. This petition was forwarded by the second respondent to the third respondent for appropriate enquiry by memo dated 15.12.2016. Thereafter, the petitioners submitted another representation dated 02.2.2017 to the second respondent. In the meantime, the joint pattadhars were attempting to alienate the properties and therefore, a representation was given to the fourth respondent on 30.3.2017 not to entertain any document for registration.

5. Though there was a direction issued by the second respondent to the third respondent earlier, no action was initiated. Therefore, the petitioners gave another representation on 12.6.2017, pursuant to which, the second respondent directed the third respondent to conduct appropriate enquiry by memo dated 18.8.2017. According to the petitioners, no enquiry was conducted and all of a sudden, instead of removing the name of the said Mrs.Gowri Ammal and including the name of the said Mr.P.Krishnan, the name of the said Mrs.Gowri Ammal was retained and the names of one Ms.Rosammal, one Mr.Vijayan, one Mr.Durai, one Mr.Anandhan, one Ms.Padmavathi and one Mr.K.M.Selvam were included. This, according to the petitioners, is wholly illegal. Therefore, the petitioners are before this Court seeking a direction to the third respondent to conduct appropriate enquiry in terms of the Patta Pass Book Act.

6. The third respondent filed a counter affidavit wherein it has been stated that out of the total extent of land in S.F.No.642/1, Minnal Village measuring 2.20 acres, an extent of 0.20 cents has been transferred in the name of the said Mrs.Gowri, W/O Mr.Vinayagam by document registered as Doc.No.813

of 1988 on the file of the Sub-Registrar, Arakkonam and as per documents registered as Doc.Nos.3542 of 1979, 631 of 2006 and 2611 of 2006, 0.5 cents of land in the said survey number were transferred in the names of wife and sons of one Mr.K.N.Venkatesan namely the said Ms.Rosammal, the said Mr.Vijayan, the said Mr.Anandhan and the said Mr.Durai.

7. It is further stated in the counter filed by the third respondent that as per document Nos.906 of 1979 and 1007 of 1982, 0.40 cents of land belong to the said Mrs.Padmavathy, W/O Mr.Chokkalingam and as per Doc.Nos. 11626 of 2011 and 3179 of 2015, 0.20 cents of land belong to the said Mr.K.M.Selvam. It is also stated that as per Doc.No.2225 of 1974, 0.50 cents of land belong to one Mr.Nediyavelu, out of which, 0.20 cents each belong to the said Mr.Chokkalingam and the said Mr.K.M.Selvam.

8. The third respondent further stated in the counter that a field enquiry was conducted and as per the UDR Register, the land in S.F.No.642/1 of Minnal Village belongs to the said Mr.P.Boopalan, the said Mr.P.Krishnan and the said Mr.K.Manicka Mudaliar. The third respondent would also state that during the field inspection, the said Mr.P.Boopalan and the said Mr.P.Krishnan represented to the third respondent that they had no right or possession of the land. But, the petitioners raised objections for inclusion of joint pattadhars in patta No. 1481. The third respondent would further state that the petitioners did not produce any document to support their claim that the subject land belonged to their father. With the above facts, the learned Special Government Pleader submits that the prayer sought for cannot be granted and more particularly when the joint pattadhars have not been made as parties to the writ petition.

9. Firstly, it needs to be pointed out that the Tahsildar cannot review his own order after having included private parties as joint pattadhars. However, the learned Special Government Pleader is right in contending that no positive direction can be issued in the absence of joint pattadhars being impleaded as party respondents in the writ petition. The counter affidavit filed by the third respondent does not state as whether any notice was issued to the petitioners before inclusion of the names of other joint pattadhars, who are stated to have purchased similar extent of land out of the total extent.

10. The petitioners filed a reply affidavit specifically denying that the said Mr.P.Boopalan and the said Mr.P.Krishnan never stated that they had no right or possession in the land, but they raised their objections for inclusion of names in the joint patta. In any event, an enquiry requires to be conducted by the Revenue Divisional Officer because already patta has been mutated and the names of third parties have been included in the patta. The correctness of the decision of the Tahsildar is to be decided by the Revenue Divisional Officer. Therefore, this Court

is inclined to issue appropriate directions to enable the petitioners to proceed further.

11. In the light of the above, the writ petition is disposed of by directing the petitioners to file an appeal petition before the second respondent within a period of three weeks from the date of receipt of a copy of this order enclosing all the documents in support of their claim. If, according to the petitioners, the names of the said Mr.P.Boopalan and the said Mr.P.Krishnan are also objecting to inclusion of the names of third parties in the joint patta, it is open to them to join the petitioners in filing the appeal. In the appeal petition to be filed before the second respondent, the petitioners should implead all the joint pattadhars as respondents. After receiving the appeal petition in full form, the second respondent is directed to issue notice to the parties, afford an opportunity of personal hearing and pass orders on merits and in accordance with law, preferably within a period of three months from the date, on which, the personal hearing is concluded subject to the condition that the parties shall cooperate with the disposal of the matter. No costs. Consequently, the connected WMP is closed.

Sd/-

Assistant Registrar (V)

//True Copy//

Sub Assistant Registrar

RS

To

- 1.The District Collector,  
Vellore District, Vellore.
- 2.The Revenue Divisional Officer,  
Ranipettai, Vellore District.
- 3.The Tahsildar, Arakkonam Taluk, Vellore District.
- 4.The Sub-Registrar,  
District Registrar's Office,  
Arakkonam, Vellore District.

+1cc to Mr.A.S.Mujibarrahan, Advocate, S.R.No. 3669  
+1cc to the Government Pleader, S.R.No. 4738

WP.No.30606 of 2017&  
WMP.No.32247 of 2018

BR(CO)  
GN(18/02/2020)