

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :28.02.2020
CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.26266 of 2017
WMP.No.27296 of 2017

1. Tmt. Angammal
2. K. Venkatesan
3. K. Palani

...Petitioners

-vs-

1. The District Revenue Officer,
O/o. The District Collectorate,
Tiruvallur District, Tiruvallur.
2. The Tahsildar,
Gummidipoondi Taluk Office,
Tiruvallur District, Gummidipoondi.
3. E. Subramai

...Respondents

PRAYER : Petition under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in respect of the impugned order dated 29.08.2017, in proceedings, R.C.No.16982/2015(B3) and quash the same as arbitrary and illegal in so far as it relates to cancellation of entries made in the revenue records during UDR scheme in respect of the lands in Survey Nos. 398/8, 398/9, 398/12, 398/13 and 399/2, 399/3A, totally measuring an extent of Acre 1.48 cents, situated in Arambakkam Village, Gummidipoondi Taluk, Tiruvallur District entered in the name Kuppu Reddi, bearing Patta No.143 and consequently direct the respondents 1 and 2 to restore the patta No.143 in the name of late Kuppu Reddi.

For Petitioners : Mr. R. Munuswamy

For Respondents : Mr.M.D.Ilayaraja
Government Advocate [R1 & R2]
Mr.K. Kannaiah Naidu [R3]

ORDER

Heard Mr.R.Munuswamy, learned counsel for the petitioners, Mr.M.D. Ilayaraja, learned Government Advocate for respondents 1 and 2 and Mr.K. Kannaiah Naidu, learned counsel for the 3rd respondent.

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

3. The order impugned in this writ petition has been passed by the 1st respondent rejecting the request made by the 3rd respondent for correction of the entries in the revenue records during the UDR scheme. The 3rd respondent is the brother of 1st petitioner and petitioners 2 and 3 are the sons of the 1st petitioner and Mr.Kuppu Reddi is their father.

4. The patta in respect of the property in question in patta No.143 stood in the name of Kuppu Reddi. The 3rd respondent filed an application stating that an erroneous entry has been made during the UDR scheme. Therefore, the patta should have been transferred in his name. By the impugned order, the claim made by the 3rd respondent has been rejected. However, the 1st respondent while doing so, even has examined the title to the property and has observed that the patta cannot be granted or restored since different set of names have been shown as pattathars in the revenue records.

5. The learned Government Advocate submitted that the Settlement Register, which exist prior to UDR scheme shows the name of pattathar in respect of survey No.398/8 as Thalayari to an extent of 0.73 cents, survey No.398/9 as Thalayari to an extent of 0.86 cents, survey No.398/12 as Karnam to an extent of 1.36 cents, survey No.398/13 as A.V. Pakka Reddy and four others to an extent of 0.64 cents, survey No.399/2 as Muthuram Pillai to an extent of 0.66 cents and survey No.399/3 as Ahamed Sahib and Dharman to an extent of 0.99 cents.

6. It is to be noted that the petitioners did not approach the 1st respondent for rectification of any error. Therefore, if the 1st respondent had to examine the correctness of the entry in the name of Kuppu Reddi, then appropriate procedure should be followed. In any event, enquiry into the title to the property cannot be made. This will be decided in the pending Civil suit.

7. In the considered view of this Court, this could not have been done by the 1st respondent as it would amount to going to the title of the property. If the 1st respondent has rejected the prayer made by the 3rd respondent, then it goes without saying that the entries, which stood as on the date when the 3rd respondent filed petition should be maintained. This is more so because the 1st respondent has directed the 3rd respondent to approach the Civil Court and seek declaration of his title to the property. Therefore, if the 1st respondent has stopped with the direction to the 3rd respondent to approach the Civil Court, then there can be no error in the impugned order. However, he

has gone one step further and disturbed the revenue entry in the Kuppu Reddy, which is incorrect. Therefore, the impugned order to that extent is set aside.

8. Accordingly, the writ petition is partly allowed and the respondents 1 and 2 are directed to maintain the revenue record in the name of late Kuppu Reddy and await for the outcome of the civil suit filed by the petitioners, which is presently pending before the District Munsif cum Judicial Magistrate, Gummidipoondi in O.S.No.116 of 2019. The respondents 1 and 2 shall await the outcome of the Civil proceedings and abide by the judgment and decree to be passed in the Civil suit. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The District Revenue Officer,
O/o. The District Collectorate,
Tiruvallur District, Tiruvallur.
2. The Tahsildar,
Gummidipoondi Taluk Office,
Tiruvallur District, Gummidipoondi.

+1cc to Mr.R.Munusamy, Advocate, S.R.No.18142
+1cc to the Government Pleader, S.R.No.18747

W.P.No.26266 of 2017
WMP.No.27926 of 2017

RK(CO)
nvi/28.05.2020

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