BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 15.10.2020
CORAM:
THE HONOURABLE MR.JUSTICE S. VAIDYANATHAN
W.P(MD)No.7132 of 2018

Gunasekaran ... Petitioner

Vs.

1.The Revenue Divisional Officer,
Uthamapalayam,
Theni District, Theni.

2.The Tahsildar,
Uthamapalayam Taluk,
Theni District.

3.Deivendran,
Police Constable,
'B' block,
Uthamapalayam Police Quarters,
Theni District. ... Respondents

[R3 is impleaded vide order dated 10.04.2018 in W.M.P.(MD).No.7149/2018]

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the second respondent to exercise the power conferred to him under Section 10 of Patta Pass Book Act for modification of the entries in the revenue records particularly Patta No.15 for the property related and situated at Ward No.1, Manthaiamman Kovil Street, Melagudalur Village, Uthamapalayam Taluk, Theni District by considering the petitioner's representation dated 17.03.2017.

For Petitioner : Mr.A.Saravanan

For Respondents : Mr.K.P.Krishnadoss
Additional Government Pleader
For R1 and R2
Mr.S.Sukumar
for R3

ORDER

This writ petition has been filed for issuance of a Writ of Mandamus directing the second respondent to exercise the power conferred to him under Section 10 of Patta Pass Book Act for modification of the entries in the revenue records particularly

Patta No.15 for the property related and situated at Ward No.1, Manthaiamman Kovil Street, Melagudalur Village, Uthamapalayam Taluk, Theni District by considering the petitioner's representation dated 17.03.2017.

2. Heard the learned Counsel appearing for the petitioner and Mr.K.Sathya Singh, learned Additional Government Pleader, who took notice for the respondents 1 to 3.

3. The learned Counsel appearing for the petitioner submitted that the house property situated at Manthaiamman Kovil Street, Ward No.1, Melakoodalur Village, Uthamapalayam Taluk, Theni District, belongs to his father one Pinna Thevar @ Mokkaiah Thevar and his father paying kist for the past 50 years under House Tax No.1187 for the above said property. The said property is an ancestral property and then the said property was in the name of the petitioner's father. After the demise of the petitioner's father, the fourth respondent, who is the brother of the writ petitioner, without obtaining any legal heir certificate, illegally transferred the above said House Tax No.1187 in the name of their mother, namely Amaravathy, aged about 90 years. On that basis, Patta No.15 was issued in the name of the petitioner's mother. Thereafter, the fourth respondent transferred the said property in favour of him from his mother by way of gift settlement deed dated 03.10.2017, vide document No.3950/2017 and registered the same. According to the petitioner, the partition was not done properly between the legal heirs of his father, namely, Pinna Thevar @ Mokkaiah Thevar. Therefore, the said gift deed is not a valid one since it is a joint family property. Thereafter, the petitioner made a complaint to the second and third respondents to cancel the gift settlement deed dated 03.10.2017, by considering his representation dated 17.03.2018. Since the said representation was not considered by the official respondents, the petitioner has filed a writ petition in W.P.(MD). No.6868 of 2018 before this Court along with this Writ Petition. Now, in this writ petition, he seeks a direction to the second respondent to consider the petitioner's representation, dated 17.03.2017, in which he requested the second respondent to exercise the power conferred to him under Section 10 of Patta Pass Book Act for modification of the entries in the revenue records particularly in Patta No.15 for the property in question.

4. The relief sought for in this writ petition is depending upon the outcome of the proceedings before the appropriate authority with regard to the mutation of the revenue records. Hence, at this stage, no relief could be granted in this writ petition as the consequential relief is issuance of Patta Passbook. It need not be construed that this writ petition has been rejected on merits, but it is closed as issuance of Patta

would depend upon the proceedings under Section 68(2) of the Registration Act, 1908.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

PJL

Note:In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Revenue Divisional Officer,
Uthamapalayam,
Theni District, Theni.

2.The Tahsildar,
Uthamapalayam Taluk,
Theni District.

W.P(MD)No.7132 of 2018
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