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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2021

CORAM:

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

W.P. No.2513 of 2020

and

W.M.P. No.2925 of 2020

1.R.Vinoth Balaji

2. L. Jeenesh Raja

...Petitioners

-Vs-

1. The District Revenue Officer,
Namakkal District,
Namakkal.

2. The Revenue Divisional Officer,
Tiruchengode,
Namakkal District.

3. The Tahsildar,
Tiruchengode Taluk,
Tiruchengode, Namakkal District.

4. Mrs. Thiripurasundari,

5. Mrs. Malliga,

6. Thanigaivel

...Respondents

PRAYER: This Petition is filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, to call for the records, relating to the impugned orders passed by the 2nd respondent dated 04.05.2018 made in Mu.Mu.No.4793/2016/U and the order passed by the 1st respondent dated 18.11.2019 in Pa.Mu.No.18358/2018/G6, and to quash the same, consequently, direct the 3rd respondent to remove the name of the 6th respondent in respect of Patta No.1043 of the property comprised in Natham Survey No.488/35 in Old Survey No.303, situate at Amani Village, Pallipalayam, Komarapalayam Taluk, Namakkal District within a stipulated time and pass orders accordingly.



For Petitioners
For Respondents
1 to 3

:: Mr.C.Prabakaran
:: Mr. K.M.D.Muhilan
(Government Advocate)

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For Respondents 4 & 5 :: No Appearance

For Respondent -6 :: Mr. P. Dinesh Kumar

O R D E R

This Writ petition has been filed for the issuance of Writ of Certiorarified Mandamus, to call for the records, relating to the impugned orders passed by the 2nd respondent dated 04.05.2018 made in Mu.Mu.No.4793/2016/U and the order passed by the 1st respondent dated 18.11.2019 in Pa.Mu.No.18358/2018/G6, and to quash the same, consequently, direct the 3rd respondent to remove the name of the 6th respondent in respect of Patta No.1043 of the property comprised in Natham Survey No.488/35 in Old Survey No.303, situate at Amani Village, Pallipalayam, Komarapalayam Taluk, Namakkal District within a stipulated time and pass orders accordingly.

2.The learned counsel for the petitioner would submit that the property comprised in S.No.488/35, situate at Pallipalayam Amani Village, Kumarapalayam Taluk, Nammakkal District was originally belongs to one Naghu Chettiar. The said Naghu Chettiar settled the property in favour of his daughters namely, Parimalam, Indirani and Kokilam, vide Document Nos.1780 of 1975, 1781 of 1975. In view of the settlement deed, the said Parimalam was put in possession of the said property and accordingly the deed was acted upon. While the settlement Deed has a specific clause that the same cannot be revoked under any circumstances by the settlor, the settlement Deed executed in favour of Parimalam vide document No.1780 of 1975 was revoked by the said Nagu Chettiar on 31.12.1975 vide Document No.1785 of 1975. Further, even though the property tax and other charges were also been paid by the said Parimalam to the competent authorities and her name was mutated in the Revenue Records as well, the 6th respondent herein had raised a dispute relating to the mutation of revenue records in her favour in respect of the property comprised in Survey No.488/35, corresponding to Patta No.1043, stating that the said property was owned by his great grand-father Naghu Chettiar and the said Naghu Chettiar, revoked the settlement deed executed in favour of Parimalam on 31.05.1975 itself and thereafter, a Will was executed vide Document No.30/BK/III during the year 1976 bequeathing the said property in favour of Male descendants of his family viz. , the 6th respondent who is the Great Grandson of Nagu Chettiar.



3. It has been further submitted by the learned counsel for the petitioner that the 6th respondent filed an appeal against the order of issuance of Patta in favour of the said Parimalam before the 2nd respondent. Upon hearing the parties, the 2nd respondent rendered a finding that the other claimant including 6th respondent did not produce any material evidence to show that title over the property except the said Parimalam, on contra, passed the order in Mu. Mu.No.4793/2016/U directing the Tahsildar, to include the 6th respondent name and to issue Joint Patta, as the property belongs to Ancestral property of Naghu Chettiar. Being aggrieved, the said Parimalam preferred a Revision before the 1st respondent claiming her legitimate right over the subject matter of the property. Similarly, the private respondents herein were made their independent claim of title over the subject property and sought patta in all of their names based on their claims. During pendency of Revision, the said Parimalam died issueless. As per the Settlement dated 30.12.1975, after the death of the said Parimalam, the property belongs to her would devolve on the legal heirs of daughters of Naghu Chettiar. Accordingly, the petitioners have accrued right over the property after the death of said Parimalam. Hence, the petitioners have made representation to the Commissioner of Revenue Administration, Chennai seeking to dispose of the Revision pending before the 1st respondent filed by the said Parimalam who is the maternal aunt of the petitioners. Under such circumstances, the 1st respondent passed the impugned order in Pa.Mu.No.18358/2018(G6) directing the authorities to maintain the status quo on the date of passing of the order and directed the parties of the proceedings to approach the Civil Court for their relief as the issue relating to the title involved in the said proceedings. Hence, the petitioners are left with no other alternative and efficacious remedy except to approach this Hon'ble High Court by invoking its jurisdiction under Article 226 of Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records, relating to the impugned orders passed by the 2nd respondent dated 04.05.2018 made in Mu.Mu.No.4793/2016/U and the order passed by the 1st respondent dated 18.11.2019 in Pa.Mu.No.18358/2018/G6, and to quash the same, consequently, direct the 3rd respondent to remove the name of the 6th respondent in respect of Patta No.1043 of the property comprised in Natham Survey No.488/35 in Old Survey No.303, situate at Amani Village, Pallipalayam, Komarapalayam Taluk, Namakkal District within a stipulated time and pass orders accordingly.

4. The learned counsel for the 6th respondent would submit that neither the petitioners nor the deceased Parimalam do not have any exclusive right over the subject matter property since the Settlement Deed executed in favour of the said Parimalam was revoked on the next day of its execution. Further, by virtue of



Release Deed the said property was executed by wife of Naghu Chettiar a way back in 1980, in favour of the 6th respondent. Hence, the 6th respondent is the truthful owner of the said property. Therefore, the averments contained in the affidavits filed in support of the Writ petitions are liable to be rejected and thereby the Writ petition filed by the petitioners herein is liable to be dismissed.

5. The learned Government Advocate appearing for the respondents 1 to 3 would submit that after enquiry, the 1st and 2nd respondents have passed the orders in accordance with law since the dispute over the title of the property between the Petitioners and the 6th respondent herein who are the descendants of the said Naghu Chettiar. Under such circumstances, the petitioners and other parties can only seek remedy by way of filing Civil Suit before the Competent Civil Court to claim their independent title in the said property.

6. Heard the learned counsel on either side and perused the material available on records.

7. On a perusal of the records, it is seen that the said property is ancestral property which was settled in favour of the said Parimalam by her father who died issueless. It is said that the Settlement Deed was revoked by the settlor on the next day of its execution. However, it is to be noted that the revenue records have been mutated in her name and subsequently, the Joint Patta was issued after including the name of the 6th respondent with regard to the said property based on the release deed in favour of the 6th respondent by virtue of order of the 2nd respondent herein. Now, the petitioners are claiming the title over the property as the said Parimalam died without issueless and hence the said property would devolve upon them since they are the legal heirs of other daughters of the said Naghu Chettiar. Under such circumstances, as the subject matter of the issue is relating to the title over the property and the revenue records have been mutated in the name of the Parimalam and the 6th respondent, the 1st respondent has ordered to maintain Status Quo in respect of the revenue records of the subject property in the names of the said Parimalam and the 6th respondent herein and directed the parties concerned to approach the Civil Court for seeking their title remedy in the said property. Further, this Court by its order dated 04.02.2020 directed the parties concerned not to alienate or create any form of encumbrance or third party interest or part with possession or alter the physical features of the property, without prior permission of this Court till the next hearing.

8. Under such circumstances, this Court without going into the merits of the case, directs the petitioners and the private



respondents to approach the Competent Civil Court to prove their title regarding the property by producing their relevant documents of the said property and details of the genealogy before the said Court and thereby the dispute in the property can be decided between the family members and this issue cannot be decided under Article 226 of Constitution of India.

9. With the aforesaid directions, the Writ petition is disposed of accordingly. Consequently, connected miscellaneous petition is closed if any. There shall be no orders as to costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

Lbm

To:

1. The District Revenue Officer,
Namakkal District,
Namakkal.
2. The Revenue Divisional Officer,
Tiruchengode,
Namakkal District.
3. The Tahsildar,
Tiruchengode Taluk,
Tiruchengode, Namakkal District.

+lcc to Mr.C.Prabakaran, Advocate, S.R.No.46205
+lcc to Mr. P. Dinesh Kumar, Advocate, S.R.No.46371
+lcc to the Government Pleader, S.R.No.46507

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NSK 08/12/2021