



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.10.2021

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.14147 OF 2013

AND

M.P.NOS.1 & 2 OF 2013

1. S.Thripuranthagan (deceased)
2. T.Komalam
3. B.Bhuvaneshwari
4. S.Kanchana
5. T.Sambasivam
6. T.Iyyasamy
7. T.Gopi
8. Kalpana.L
(petitioners 2 to 8 impleaded as
per cour order dated 08.10.2021
in W.M.P.No.22136 of 2021 in
W.P.No.14147 of 2013)

... Petitioners

.Vs.

1. The District Revenue Officer,
Thiruvallur District.
2. The Revenue Divisional Officer,
Ponneri, Thiruvallur District.
3. The Tahsildar,
Gummidipoondi Taluk,
Gummidipoondi,
Thiruvallur District.
4. K.S.Vivekanandan

... Respondents

PRAYER:-

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the order made in Na.Ka.26848/2011/B3 dated 16.04.2013 passed by the first respondent in confirming the order made in Na.Ka.7610/2010/A2 dated 09.11.2011 passed by the second respondent and the order



made in O.Mu.10178/2009/A1 dated 16.12.2009 passed by the third respondent quash the same and consequently direct the the third respondent to cancel the patta issued in the name of the fourth respondent and transfer the same in favour of the petitioner.

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For Petitioners : Mr.G.Ethirajulu

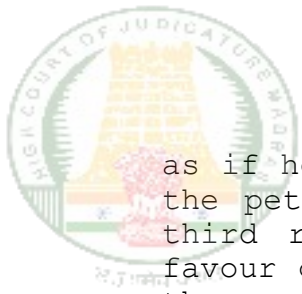
For RR1 to 3 : Mr.M.R.Gokul Krishnan
Government Advocate

For R4 : Mr.K.Krishnaswamy

ORDER

This writ petition is filed to issue a Writ of Certiorarified Mandamus calling for the records relating to the order made in Na.Ka.26848/2011/B3 dated 16.04.2013 passed by the first respondent in confirming the order made in Na.Ka.7610/2010/A2 dated 09.11.2011 passed by the second respondent and the order made in O.Mu.10178/2009/A1 dated 16.12.2009 passed by the third respondent quash the same and consequently direct the the third respondent to cancel the patta issued in the name of the fourth respondent and transfer the same in favour of the petitioner.

2. The case of the first petitioner is that the first petitioner's father married the second wife after death of the first wife. Originally the entire properties owned by the first petitioner's father and the fourth respondent. During the first petitioner's father's life time, the first petitioner and the fourth respondent partitioned the property by way of partition deed dated 25.04.1970 vide document No.675 of 1970. Accordingly, the petitioner was allotted property comprised in survey No.359/1, 370/12 and 401/9 along with other properties situated at Keelmudulambedu Village, Gummidipoondi Taluk. Accordingly, the petitioner and the fourth respondent are in their possession and enjoyment of their respective allotted shares. Subsequently, their father died on 05.01.1980. In order to give some sources of income for the livelihood of their step mother one, Meenakshiammal, the properties comprised in survey Nos.370/12 and 401/9 belong to the petitioner and the property comprised in survey Nos.378/2 and 399/9 belong to the fourth respondent herein were entrusted to their mother Mrs.Meenakshiammal to enjoy the usufructs till her lifetime. She died on 01.12.2002 leaving behind the petitioner and the fourth respondent as her legal heirs. The fourth respondent was employed as Village Administrative Office during the relevant point of time and taking advantage of his official capacity, in collusion with the revenue officials, manipulated the patta and included his name



as if he is the absolute owner of certain properties by deleting the petitioner's name. Therefore, the petitioner approached the third respondent on 16.09.2009 to cancel the patta issued in favour of the fourth respondent and to issue patta in respect of the property entrusted to the said Meenakshiammal in his favour. However, the said request was rejected and confirmed by the first respondent herein.

3. The learned counsel for the petitioners would submit that the petitioners also filed suit in OS.No.67 of 2010 to recover the above said property from the fourth respondent and it is pending on the file of the District Munsif Court, Ponneri. The said suit is no way connected with the request before the revenue officials since without any semblance of rights over the property, the fourth respondent was granted patta as if he is the absolute owner of the entire property. Therefore, on the appeal, the second respondent cancelled patta issued in favour of the fourth respondent and restored to the name of the said Meenakshiammal. He further submitted that there is absolutely no records to show that originally the same stood in the name of the said Meenakshiammal insofar as the property which was allotted in favour of the petitioner. The first respondent was being Village Administrative Officer at that point of time, he manipulated the entire records and created patta in his favour. The partition deed dated 25.04.1970 is a registered one. Accordingly, the subject property was duly allotted to the petitioner and as such patta to be restored in the name of the petitioner.

4. Per contra, the learned counsel for the fourth respondent would submit that the patta issued in favour of the fourth respondent now cancelled and restored to the name of the mother Meenakshiammal. The revenue authorities have no power or jurisdiction to decide the title over the property. As such, if there is any dispute in respect of title over the property, the parties ought to have approached the civil court to prove their title.

5. The learned Government Advocate submitted that already the deceased first petitioner filed suit for recovery of possession in respect of the very same property in O.S.No.67 of 2010 and it is pending on the file of the District Munsif Court, Ponneri. Therefore, the petitioner and the fourth respondent are entitled to have get patta subject to the result of the suit.

6. Admittedly, the petitioner and the fourth respondent are brothers. During the lifetime of their father, they partitioned the property by the registered partition deed dated 25.04.1970 and registered vide document No.675 of 1970 on the file of the Sub Registrar, Arani. After demise of their father, the



petitioner and the fourth respondent have entrusted the property comprised in survey Nos.370/12 and 401/9 belong to the petitioner and the property comprised in survey Nos.378/2 and 399/9 belong to the fourth respondent to their mother Meenakshiammal. She died on 01.12.2002. However, the patta was issued to the said property in favour of the fourth respondent and subsequently restored to their mother's name. The petitioners filed suit for recovery of possession in respect of the said property against the fourth respondent in OS.No.67 of 2010 and it is pending on the file of the District Munsif Court, Ponneri.

7. The learned counsel for the petitioners vehemently contended that the records for issuance of joint patta in favour of the fourth respondent are missing and the fourth respondent was being Village Administrative Officer, he fabricated the document and issued patta in his favour. On perusal of the order passed by the official respondents also to show that the records are missing.

8. In view of the above discussion, the second respondent is directed to conduct fresh enquiry after issuing notice to the petitioner and the fourth respondent and after giving them opportunity of hearing and pass orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of copy of this order. It is made clear that the second respondent is directed to call for the records from the authority concerned and verify the same before passing orders. It is also made clear that the pendency of the suit in O.S.No.67 of 2010 on the file of the District Munsif Court, Ponneri is not an impediment for the second respondent to pass orders. Further, the trial court is directed to dispose of the suit in OS.No.67 of 2010 without the influence of the order passed by the revenue authorities.

9. With the above directions, this writ petition is disposed of. Consequently, connected miscellaneous petitions are closed. No order as to costs.

Sd/-
Assistant Registrar(CS V)

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Sub Assistant Registrar

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To

1. The District Revenue Officer,
Thiruvallur District.
2. The Revenue Divisional Officer,
Ponneri,
Thiruvallur District.
3. The Tahsildar,
Gummidipoondi Taluk,
Gummidipoondi,
Thiruvallur District.
4. The District Munsif,
Ponneri.

+1cc to Mr.V.Ajoy Khose, Advocate, S.R.No.53593
+1cc to Mr.G.Ethirajulu, Advocate, S.R.No.53296

W.P.NO.14147 OF 2013

MG (CO)
PBS/13/12/2021