



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2021

CORAM

THE HON'BLE Mr. JUSTICE G.K.ILANTHIRAIYAN

WP.No.26651 of 2011  
and  
MP.Nos.1 and 2 of 2011

1.O.Gurunathan  
2.O.G.Balaji  
3.O.G.Jayakumar

...Petitioners

Vs

1. The Sub Collector,  
Ranipet, Vellore District  
  
2. The Tahsildar,  
Arakkonam Taluk, Arakkonam  
  
3. Narasimmalu  
  
4. Anusuya

...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 of the first respondent in his proceedings Na.Ka.No.A4/6080/10 dated 23.03.2011 so as to quash the same and to direct the second respondent to restore joint patta No.734, Thandalam Village to its original form by including the names of the petitioners 2 and 3 therein.

|                 |   |                                              |
|-----------------|---|----------------------------------------------|
| For Petitioners | : | Mr.S.Gowri Shankar                           |
| For Respondents |   |                                              |
| For R1 & 2      | : | Mr.Richardson Wilson,<br>Government Advocate |
| For R3 & 4      | : | Mr.R.Bharanidharan                           |



## ORDER

This Writ Petition is filed to issue a writ of certiorarified mandamus to call for the records of the first respondent in his proceedings Na.Ka.No.A4/6080/10 dated 23.03.2011, thereby cancelled the patta issued in favour of the petitioner herein and to quash the same and to direct the second respondent to restore joint patta No.734, Thandalam Village to its original form by including the names of the petitioners 2 and 3 therein.

2. The learned counsel for the petitioners would submit that prior to the re-organisation of States, Thandalam village in which the subject property is situated fell within the Chittoor District of Andhra Pradesh. Thereafter, the said village was included in the Vellore District. The first petitioner's father owned extent of 70 cents of land comprised in survey No.255/1E1 under a joint patta bearing No.119. However, transfer of Thandalam Village to the State of Tamilnadu, the first petitioner's father's name was omitted from joint patta, though he was in continuous possession and enjoyment of the suit property. Therefore, the petitioners submitted representation to the District Collector and on enquiry found that the previous land records stand in the name of his father and joint patta was issued in respect of the property comprised in survey No.255/1E1. Thereafter, the first petitioner executed two settlement deeds in favour of his two sons, i.e. second and third petitioners herein on 20.02.2008 vide registered document No.2409 of 2008 and dated 10.07.2008 vide registered document No.8871 of 2008. On the strength of the settlement deeds, they also obtained separate patta by subdivision of the property as patta Nos.1122 and 1123 comprised in survey No.255 of 2014 to the extent of 20 cents and survey No.255/15 to an extent of 15 cents.

3. He further submitted that aggrieved by the same, the fourth respondent herein filed appeal before the first respondent challenging the patta issued in favour of the first petitioner herein. After registering the settlement deeds, the third and fourth respondents came to knowledge about the subdivision of the suit property and also issuance of separate patta in favour of the second the third petitioners. They also challenged the patta issued in the name of the first petitioner. Even then, he did not implead the second and third petitioners as party to the appeal and they had not received notice from the first respondent. They were not given any opportunity of hearing before passing impugned order. That apart, they filed the appeal after period of 10 years from the date of issuance of order in favour of the first petitioner herein. He also raised



the ground that the first respondent is not the appellate authority and they have to file petition before the second respondent.

4. Per contra, the learned counsel for the third and fourth respondents filed counter and submitted that the property admeasuring 4.23 acres originally comprised in survey No.255/1E situated at Thandalam village, Arakkonam Taluk, Vellore District. The entire properties were in joint possession of seven persons. They were issued joint patta No.119. During the UDR scheme in the year 1985, it was sub-divided into survey No.255/1E1 to an extent of 3.27 acres in patta No.734 and survey No.255/1E2 to an extent of 98 cents in patta No.855. As far as the land in survey No.255/1E1 admeasuring 3.27 acres patta was issued in favour of the fourth respondent and others. Insofar the property comprised in survey No.255/1E2 admeasuring 98 cents was concerned, patta granted in favour of one, Raghava Chettiar and Chengaiya Chettiar, of which the first petitioner is the son of the said Chengaiya Chettiar. The petitioners 2 and 3 are sons of the first petitioner. The first petitioner bequeathed his share comprised in survey No.255/1E2 in favour of his wife. In turn, his wife Krishnaveni bequeathed the share of Iyyammal and thereafter sold the undivided share of 33 cents comprised in survey No.255/1E2 and one acre in survey No.255/1E1 respectively to one Kupppammal W/o Sriramulu by way of sale deed dated 02.07.1997. Therefore, the first petitioner had no title over the property and only to create fraudulent documents, he obtained patta and on the strength of the said patta he also executed settlement deeds in favour of the second and third petitioners. Therefore, the first respondent rightly cancelled the patta issued in favour of the first petitioner herein.

5. The learned Government Advocate submitted that the order has been passed under Section 10 of Patta Passbook Act, thereby modified the patta. Aggrieved by the same, appeal is very much available under Section 12 of the Patta Passbook Act before the first respondent. Therefore, the appeal is very much maintainable. Though the second and third petitioners were issued patta after execution of settlement deeds in their favour, they were not impleaded as party in the appeal and they were not noticed before passing final order.

6. Heard, Mr.S.Gowri Shankar, the learned counsel for the petitioners, Mr.Richardson Wilson, Government Advocate appearing for the respondents 1 & 2, and Mr.R.Bharanidharan, the learned counsel for the respondents 3 & 4.

7. Admittedly, the first petitioner was issued patta for the land comprised in survey No.255/ 1E1 to an extent of 70 cents. In pursuant to the said patta, the first petitioner



settled the property in his sons' favour i.e. second the third petitioners herein by the settlement deed dated 20.02.2008 and 10.07.2008 vide document Nos.2409 of 2008 and 8871 of 2008 of the year 2008 respectively. After settlement deeds, they separately obtained patta for their respective shares i.e. 20 cents and 50 cents respectively in patta No.1122 and 1123 in respect of sub-division comprised in survey No.255/14 and 255/15. In fact, the third and fourth petitioners filed appeal only after settlement deeds executed by the first petitioner in favour of the second and third petitioners and after issuance of patta in their favour. Even then, the third and fourth respondents herein failed to implead the second the third petitioners as party to the appeal proceedings. They also failed to challenge the patta issued in their favour in pursuant to the settlement deeds.

8. Insofar as maintainability of the appeal is concerned, order has been passed under Section 10 of the Patta Passbook Act, i.e. modification of entries in the patta passbook is appealable under Section 12 of Patta Passbook Act. Therefore, the first respondent has got jurisdiction to entertain the appeal under Section 12 of the Patta Passbook Act. Admittedly, the second and third petitioners were not the party to the appeal proceedings and they were not given opportunity of hearing before passing the impugned order. Therefore, it is clear violation of principles of natural justice and they must be given opportunity of hearing before passing the impugned order.

9. In view of the above, the order dated 23.03.2011 impugned in this writ petition is set aside and the said proceedings is remanded back to the first respondent for fresh disposal. It is made clear that the first respondent is directed to implead the petitioners 2 and 3 as parties to the proceedings and issue notice to them and afford opportunity of hearing to all the parties concerned 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.

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

Sd/-  
Assistant Registrar(CS-III)

// True Copy//

Sub Assistant Registrar

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To

1. The Sub Collector,  
Ranipet, Vellore District
2. The Tahsildar,  
Arakkonam Taluk, Arakkonam

+lcc to the Government Pleader, S.R.No.37690 (20/09/2021)

WP.No.26651 of 2011

PCH(CO)  
SU(25/08/2021)