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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2021

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

W.P.NO.24464 OF 2013

AND

M.P.NO.1 OF 2013

1. S.Subramanian
2. S.Vasanth
3. S.Vinoth

... Petitioners

.Vs.

1. The District Revenue Officer,
Cuddalore,
Cuddalore District.
2. The Revenue Divisional Officer,
Vridhachalam, Cuddalore District.
3. The Tahsildar,
Tittagudi,
Cuddalore District.

4. Thangavel Udayar

... Respondents

PRAYER:-

Writ Petition is filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorari, calling for the entire records relating to the impugned order passed by the first respondent in his proceedings Na.Ka.V-3/2518/2013, dated 06.08.2013 and quash the same.

For Petitioners : Mr.C.Prakasam

For Respondents : Mr.Richardson Wilson
Government Advocate
(For R-1 to R-3)

Mr.J.Antony Jesus
(for R-4)



O R D E R

This writ petition is filed to issue a Writ of Certiorari, calling for the entire records relating to the impugned order passed by the first respondent in his proceedings Na.Ka.V-3/2518/2013, dated 06.08.2013 and quash the same.

2. The first petitioner died and his sons are already on record as second and third petitioners. The learned counsel for the fourth respondent submitted that the fourth respondent is also dead.

3. The case of the first petitioner is that when his grand father, viz., Velayudha Udayar was alive, he had owned lands and also had three sons, viz., Muruga Udayar, Ramasamy Udayar and Sengamala Udayar. While he was alive, in the year 1932, he had partitioned his properties among the above said three sons through unregistered partition deed. The first petitioner's paternal uncle, viz., the said Muruga Udayar is having two sons, viz., Thangavel Udayar and Krishnamoorthy Udayar, but the said Krishnamoorthy Udayar was expired and another paternal uncle, viz., the said Ramasamy Udayar having only one daughter viz., Dhanakodi Ammal and hence, the first petitioner is the only son for his father, viz., Sengamala Udayar. As per the above said partition deed, under UDR Scheme, the joint patta has been issued in favour of the fourth respondent herein and the first petitioner's paternal uncles and his name in respect of the lands comprised in S.No.215/2B an extent of 0.34.0 hectares situated at Gudalur Village, Tittagudi Taluk, Cuddalore District and in respect of land comprised in S.No.97/1B an extent of 0.29.0 hectares and patta has been issued in favour of the first petitioner and in respect of the land comprised in S.No.227/5 an extent of 0.07.5 hectares in favour of the second and third petitioners.

4. Accordingly, the second and third petitioners herein are in possession and enjoyment of the land, after issuance of patta in their favour. While that being so, the fourth respondent approached the second respondent to cancel UDR patta issued in favour of the second and third petitioners herein. The third respondent submitted his report before the second respondent that there is a suit in O.S.No.97 of 2012 on the file of the District Munsif Court, Tittagudi and it is pending in respect of the very same property. Therefore, they objected to cancel the patta granted in their favour. In fact, they also filed a suit in O.S.No.109 of 2012 and obtained interim injunction in respect of the subject properties. Subsequently, the said Dhanakodi Ammal also filed a suit in O.S.No.105 of 2012 on the file of the District Munsif Court, Tittagudi.



5. Therefore, the second respondent rightly rejected the request made by the fourth respondent for changing the patta from UDR Scheme. However, the fourth respondent was given liberty to approach the Revenue Officials, after disposal of the suits. Aggrieved by the said order, the fourth respondent preferred an appeal before the first respondent. However, the first respondent allowed the said appeal filed by the fourth respondent and ordered to grant patta in favour of the fourth respondent herein.

6. Admittedly, the suits are pending on the file of the District Munsif Court, Thittagudi. If aggrieved by the order passed by the first respondent, the second and third petitioners have only to approach the Civil Court for appropriate relief as contemplated under Section 14 of the Tamil Nadu Patta Pass Book Act. Therefore, the second and third petitioners are directed to pursue the suits, and if they succeed in the suits, they can very well approach the third respondent for issuance of patta. Therefore, on receipt of any application from the second and third petitioners, the third respondent is directed to issue notice to the parties concerned and conduct due enquiry after giving opportunity of hearing to them and pass orders on merits and in accordance with law.

7. With the above direction, this Writ Petition is disposed of. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The District Revenue Officer,
Cuddalore,
Cuddalore District.
2. The Revenue Divisional Officer,
Vridhachalam,
Cuddalore District.



3. The Tahsildar,
Tittagudi,
Cuddalore District.

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+1cc to the Government Pleader, S.R.No.55063

W.P.NO.24464 OF 2013

GJ(CO)
PBS/26/11/2021