



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2021

CORAM:

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.18122 of 2021

Sasikala

... Petitioner

Versus

1. The Tahsildar,
Tiruvallur Taluk Office,
Tiruvalur - 602 001,
Tiruvallur District.

2. Deenadayalan

3. A.C.S. Arunkumar

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the first respondent to consider the representation of the petitioner, dated 26.02.2020 and to take appropriate action on it in accordance with law thereby cancelling the Patta (Patta No.3400) issued in the name of the third respondent in respect of the agricultural land, measuring an extent of acres 1.88 cents (0.76.0 hectare), comprised in Survey No.196/7 of Nayapakkam Village, Tiruvallur Taluk and District and restore the same in the name of Kanthammal, W/o. Munusamy Naidu.

For Petitioner : Mr.R.Munuswamy

For Respondent-1 : Mr.Yogesh Kannadasan
Government Advocate.

ORDER

The prayer sought for in this Writ Petition is for issuance of a Writ of Mandamus, directing the first respondent to



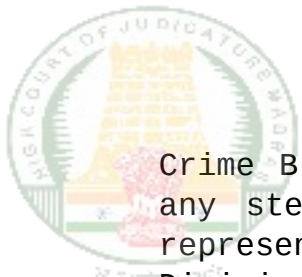
consider the representation of the petitioner, dated 26.02.2020 and to take appropriate action on it in accordance with law thereby cancelling the Patta (Patta No.3400) issued in the name of the third respondent in respect of the agricultural land, measuring an extent of acres 1.88 cents (0.76.0 hectare), comprised in Survey No.196/7 of Nayapakkam Village, Tiruvallur Taluk and District and restore the same in the name of Kanthammal, W/o. Munusamy Naidu.

2. The case of the petitioner is that she is the one of the daughters of Munusamy Naidu and Kanthammal and they had two other daughters namely Kasturiammal and Santhi and two sons namely Subramani and Deenadayalan. The petitioner's father Munusamy Naidu owned agricultural lands and house property at Seemavaram Village, Ponneri Taluk and his wife Kanthammal owned properties at Nayappakkam Village, Padur Revenue Village, (Previously Sriperumbudur Taluk, Kancheepuram District), presently in Tiruvallur Taluk and District and they had been in joint possession and enjoyment of the said properties. In the meanwhile, the petitioner's father died in the year 1971, leaving behind his wife, his sons and daughters named above as his surviving legal heirs to inherit his entire estates. While so, Kanthammal also died on 24.12.1987. After the demise of the petitioner's parents, the petitioner and his brothers and sisters named above had jointly inherited and acquired the entire estates of their deceased parents and had been in joint possession and enjoyment of the same. The petitioner is legally entitled to 1/5th share in the estates of her deceased parents. Thereafter, the petitioner requested his brothers and sisters for amicable partition, and separate possession of her share each in the estates of her deceased parents. But her brother viz., 4th respondent herein had failed to agree and cooperate with her for her said reasonable and legitimate request for partition. Hence, the petitioner and her sisters had jointly filed a suit in O.S.No.456 of 1989 on the file of District Munsif Court, Ponneri, against their brothers and a sister respectively. The agricultural land measuring an extent of acres 1.88 cents (0.76.0 hectare), comprised in Survey No.196/7 of Nayapakkam Village, Padur Revenue Village, Tiruvallur Taluk and District was also one among the properties in the said partition suit. During the pendency of the suit, his elder brother Subramani died on 02.06.1997 leaving his wife Malleswari and two daughters and a son. All of them were brought on record in the said suit. Her



WEB COPY

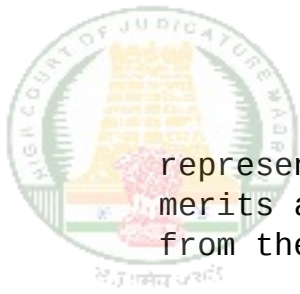
brothers had defended and restricted the claim of sisters as if they are not entitled to any right and interest in the joint family property. After contesting the suit, a preliminary decree was passed in her favour in the suit on 25.07.2006, wherein, it was declared that the petitioner is entitled to 1/5th share in the estates of her deceased parents. Based on the preliminary decree, the petitioner filed a petition for passing final decree in I.A.No.1101 of 2008 and after enquiry in the said petition, an advocate commissioner was appointed to survey, measure and divide the properties into 5 equal shares and the advocate commissioner along with Revenue officials surveyed and measured the said land and filed a report and final decree was also passed on 31.07.2014, whereunder 1/5th share was allotted to her in all the lands including the land in Survey No.196/7 of Nayappakkam Village, Padur Revenue Village, Tiruvallur Taluk and District. After obtaining the final decree, the petitioner has filed an E.P.No.2 of 2015 to deliver her 1/5th share in the suit schedule properties and the same is pending. In the meanwhile, her brother, the 2nd respondent/Deenadayalan herein along with legal heirs of her deceased brother Subramani had filed an appeal in A.S.No. 17 of 2015 on the file of Principal Sub Court, Ponneri, against the final decree passed in O.S.No.456/1989 and the same was dismissed by the appellate Court on 19.02.2021. On February, 2020, the 2nd respondent and his son with the help of their aides had created fabricated some bogus documents in respect of the land in Survey No.196/7 of Nayappakkam Village, Tiruvallur Taluk and District, which is the subject matter of the suit mentioned above and she came to know that the 2nd respondent had illegally and stealthily entered into a sale transaction with the 3rd respondent under a sale deed dated 03.02.2020 vide document No.312/2020 registered at Manavala Nagar, Tiruvallur and the same deed was made in favour of the Trust owned by the third respondent in respect of the land in Survey No.196/7 of Nayappakkam Village, Tiruvallur Taluk and District. Moreover, the 2nd respondent had fraudulently and illegally created and fabricated a legalheirship certificate on that basis and also he fraudulently created a patta for the said property in his name. Therefore, the acts of the respondents 2 & 3 are nothing but day light robbery and both of them are liable for criminal prosecution. Therefore, the petitioner lodged a complaint on 18.02.2020 before the Superintendent of Police, Tiruvallur District, who in turn forwarded the same to his subordinates to conduct enquiry. In turn, the Inspector of Police, District



Crime Branch, Tiruvallur, and the police officials did not take any steps in this regard. Thereafter, the petitioner made a representation dated 26.02.2020 to the 1st respondent/Revenue Divisional Officer, Ponneri and the Tahsildar, Ponneri, requesting them to make an enquiry regarding the genuineness and legal validity of the legalheirship certificate obtained and produced by the 2nd respondent. Having received the said representation, the authorities have not taken any action. Hence, the petitioner filed a writ petition in W.P.No.15647 of 2020 and the same was disposed of 05.11.2020 direction was issued to the RDO. The Revenue Divisional Officer, Ponneri conducted enquiry dated 29.01.2021, it was found that the legalheirship certificate was obtained by the 2nd respondent is illegal and bogus and fresh legalheirship certificate was issued in the name of surviving legal heirs of deceased Munusamy Naidu and Kanthammal. Subsequently, the petitioner filed a petition in CrI.O.P.No.16167/2020 before this Court for direction to the Inspector of Police, District Crime Branch, Tiruvallur to register a case on her complaint dated 18.02.2020. On 12.10.2020, this Court already granted liberty to file necessary petition before the concerned Magistrate u/s.156(3) of CrPC. Based on the fraudulent sale deed, the 1st respondent changed the patta No.3400 in respect of the said property in the name of the 3rd respondent. Hence, the petitioner has sent a representation, dated 26.02.2020 to the 1st respondent and others to cancel the patta, already issued in the name of the third respondent herein. Having received the said representation, no action was taken by the first respondent. Therefore, the petitioner has come forward with the present writ petition.

3. The learned counsel appearing for the petitioner submitted that the petitioner will be satisfied if a direction is issued to the Respondents to consider the petitioner's representation dated 26.02.2020 and dispose of the same within a stipulated time that may be fixed by this Court.

4. Having regard to the limited scope of the prayer that is now sought for in this writ petition before this Court and taking into account the submissions made on either side, without expressing any opinion on the merits of the petitioner's representation or the case pleaded by the petitioner in the present writ petition, the Writ Petition is disposed of, with a direction to the respondents to consider the petitioner's



representation dated 26.02.2020 and pass appropriate orders, on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order. No costs.

WEB COPY

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

To

The Tahsildar,
Tiruvallur Taluk Office,
Tiruvalur - 602 001,
Tiruvallur District.

+1cc to Mr.R.Munuswamy, Advocate, S.R.No.43733
+1cc to the Government Pleader, S.R.No.44239

W.P.No.18122 of 2021

PVS(CO)
SB(01/10/2021)