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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.10.2021

CORAM:

THE HONOURABLE MRS. JUSTICE V. BHAVANI SUBBAROYAN

W.P. No.22515 of 2021

1.Selvam

2.Seethai Ammal

3.Santhakumari

4.Sugumar

5.Kalaimani ..Petitioners

Versus

1. The State of Tamilnadu,
Rep. by Secretary,
Department of Revenue,
Fort St. George,
Chennai – 600 009.

2. The District Collector,
Collectorate, Vengikkal,
Tiruvannamalai – 606 604,
Tiruvannamalai District.

3. The District Revenue Officer,
Tiruvannamalai Collectorate,
Vengikkal – 606 604,
Tiruvannamalai District.

4. The Revenue Divisional Officer,
Cheyyar Sub-Collector Office,
Cheyyar,
Tiruvannamalai District.

5. The Tahsildar,
Chetpet, Chetpet Taluk – 606 801,
Tiruvannamalai District.

6. The Deputy Tahsildar,
Chetpet, Chetpet Taluk – 606 801,
Tiruvannamalai District.

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7. The Revenue Inspector,
Nedungunam Village & Post,
Chetpet Taluk - 606 807,
Tiruvannamalai District.

8. The Village Administrative Officer,
Morai Kaniyanoor Village,
Chetpet Taluk 606 801,
Tiruvannamalai District. ..Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of mandamus, directing the fourth respondent to cancel the patta bearing Patta No.262, relating to the property comprised in Survey No.75/1-A and Iyan Punjai Survey No.75/4A admeasuring 88.5 cents and 15 cents respectively admeasuring 103.5 cents situated at Thenkadappanthangal Village, Chetpet Taluk, Tiruvannamalai District, issued by the 5th respondent and consequently direct the 5th respondent to issue patta to the petitioners jointly.

For Petitioners : Mr. D.Giribabu

For Respondents : Mr. Yogesh Kanndasan
Government Advocate

O R D E R

This writ petition is filed for issuance of writ of mandamus directing the fourth respondent to cancel the patta bearing Patta No.262, relating to the property comprised in Survey No.75/1-A and Iyan Punjai Survey No.75/4A admeasuring 88.5 cents and 15 cents respectively admeasuring 103.5 cents situated at Thenkadappanthangal Village, Chetpet Taluk, Tiruvannamalai District, issued by the 5th respondent and consequently direct the 5th respondent to issue patta to the petitioners jointly.

2. The case of the petitioners is that they are the legal heirs of one D.Ganesan who inherited the property in Survey No.75/1-A and Iyan Punja S.No.75/4-A admeasuring 88.5 cents and 15 cents respectively, admeasuring 103.5 cents situated at Thenkadappanthangal Village, Chetpet Taluk, Tiruvannamalai District, by way of a partition deed registered as document No.1048/1972 dated 10.05.1972, on the file of SRO, Chetpet, Tiruvannamalai District. It is stated the said D.Ganesan died intestate on 16.05.2001 leaving behind the petitioners and one G.Ramakrishnan, as legal heirs who are entitled to succeed his estates. It is further stated that the said D.Ganesan obtained 2

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acres and 59.5 cents as per the registered partition deed Doc. No.1048/1972 dated 10.05.1972. It is stated that the legal heirs and D.Ganesan sold the property comprised in Survey No.75/5 measuring 0.22 cents to one S.Nirmala which is registered as Document No.1032 of 1990. Subsequently, the said legal heirs jointly sold the 1.24 acres in S.No.75/1A and 0.10 acre in S.No.75/4A to one J.Senthilkumar, which is registered as document No.1071 of 2002 dated 11.09.2002. It is further stated that after execution of sale deed in favour of Senthil Kumar, the petitioners and the said G.Ramakrishnan, retained balance of property measuring 103.5 cents and all the legal heirs are enjoying the same as absolute owners of the said property. According to Section 3 of the Patta Pass Book Act, 1983, Patta Pass Book can be granted only to the owner of the property since the owner is alone is competent to get a Patta Pass Book from the competent authorities. It is the contention of the petitioners that the property being a Joint Family Property, the respondents have issued Patta No.262 in favour of G.Ramakrishnan, without the consents of the petitioners which is null and void, ab inito, unenforceable and not binding on the other legal heirs. It is stated that it is not open to any member of the Joint Family to convert any Joint Family Property into personal property. Hence, the petitioner's made a representation dated 19.04.2021 to the respondents herein in this regard. Since, there was inaction on the part of the respondents, with no other alternative remedy, the petitioners approached this Court by way of filing this Writ Petition.

3. Learned counsel for the petitioner submitted that one of the legal heir Mr. Ramakrishnan, with an ulterior motive and without the knowledge of the other legal heirs, has no right, title or authority to individually transfer the patta in his name. He further submitted that the respondents without following Section 10 of the Tamil Nadu Patta Passbook Act, 1983, issued patta in favour of Ramakrishnan. Hence, he prays to direct the fourth respondent to cancel the patta bearing Patta No.262 and consequently direct the fifth respondent to issue patta to the petitioners jointly.

4.Learned Government Advocate appearing for the respondents submitted that this Court may direct the respondents to consider the petitioners' representation dated 19.04.2021 and the respondents may consider the same.

5.Considering the facts and circumstances of the case, this Court is of the view that though the petitioners sought big relief, it would suffice if a direction is issued to the respondents to consider the petitioners' representation and pass orders. Accordingly, this Court directs the respondents to consider the petitioner's representation dated 19.04.2021 and

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after holding an enquiry and affording sufficient opportunities to the parties concerned, pass orders on merits and in accordance with law, within a period of sixteen weeks from the date of receipt of a copy of this order.

6. With the above direction, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

bkn

1. The Secretary,
   Department of Revenue,
   Fort St. George,
   Chennai - 600 009.

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   Collectorate, Vengikkal,
   Tiruvannamalai - 606 604,
   Tiruvannamalai District.

3. The District Revenue Officer,
   Tiruvannamalai Collectorate,
   Vengikkal - 606 604,
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   Cheyyar Sub-Collector Office,
   Cheyyar, Tiruvannamalai District.

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+2cc to M/s.D.Giribabu, Advocate, S.R.No.54439

+1cc to the Government Pleader, S.R.No.55039

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KSM(CO)
RGA(15/12/2021)

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