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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 21.10.2021

Coram:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.28059 of 2017
and
WMP No. 30137 of 2017

1. H. Bala Reddy
2. M. Srinivasa Reddy
3. P. Venugopal Reddy petitioners

Vs

1.The District Revenue Officer,
District Collector's Office,
Krishnagiri,
Krishnagiri District.

2.The Sub Collector,
Sub Collector Office,
Hosur,
Krishnagiri District.

3.The Tahsildar,
Taluk Office,
Dhenkanikottai,
Krishnagiri District.

4.M/s.Happy Farms Private Limited,
City Quzanter Enterprised,
Door No.321, 3rd Floor,
Royal Corner Building,
K.H.Road, Bangalore - 27. . . . Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus calling for the records of the first respondent relating to Pa.Mu.32855/2008/J-2, dated 24.12.2014 and quash the same and consequently direct the respondents 1 to 3 herein to transfer the patta in the name of the petitioners 2 and 3 in respect of the land to an extent of 3.27 acres comprised in Survey No.490 situated Ulimaranapalli Village, Dhenkanikottai Taluk, Krishnagiri District.



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For petitioners: Mr.V.Ayyapparaja

For R1 to R3 : Mr.M.R.Gokul Krishnan,
Government Advocate

ORDER

This Writ Petition has been filed for issuance of writ of certiorarified mandamus calling for the records of the first respondent relating to Pa.Mu.32855/2008/J-2, dated 24.12.2014 and quash the same and consequently to direct the respondents 1 to 3 herein to transfer the patta in the name of the petitioners 2 and 3 in respect of the land to an extent of 3.27 acres comprised in Survey No.490 situated Ulimaranapalli Village, Dhenkanikottai Taluk, Krishnagiri District.

2. Heard, Mr.V.Ayyapparaja, the learned counsel appearing for the petitioners and Mr.M.R.Gokul Krishnan, learned Government Advocate appearing for the respondents 1 to 3.

3. The case of the petitioners is that the land ad-measuring 3.27 acres comprised in Survey No. 490 situated at Ulimaranapalli Village, Dhenkanikottai Taluk, Krishnagiri District, originally belonged to their grandfather, who had purchased the same by a registered sale deed dated 16.07.1913 vide document No.1070 of 1913 from one Puttaiya and Nanjappa, who are the sons of Chikka Veeraiya for valid sale consideration. Since the date of purchase their grandfather had been in peaceful possession and enjoyment of the same. After demise of their grandfather, their father was in possession and enjoyment of the subject land. However one Mohan, P.Nanja Reddy and the fourth respondent herein claimed right over the said property in the year 1996. Therefore, the petitioners' father verified the Encumbrance Certificate for the subject property and found that the sale deed was executed in favour of the said Mohan by a registered sale deed vide document No.436 of 1995. In turn, the said Mohan conveyed the said property in favour of one Nanja Reddy by a registered sale deed dated 11.09.1995 vide Document No.2293 of 1995. In turn, the said Nanja Reddy sold the property in favour of the fourth respondent herein by a sale deed dated 29.12.1995 vide Document No.3310 of 1995. Therefore, the petitioners family members filed a suit in O.S.No.118 of 1986 on the file of the District Munsif Court, Dhenkanikottai as against those persons including the fourth respondent herein, for declaration of title and permanent injunction. The said suit was decreed in their favour by a Judgment and Decree dated 31.01.2001. Thereafter, the petitioners applied for transfer of patta and also requested to change the revenue records since during UDR, there was an error in respect of the subject property.



4. The petitioners produced the sale deed along with the Judgment and Decree passed in the suit in O.S.No.118 of 1996 before the first respondent. The first respondent rejected the request made by the petitioners for the reason that the petitioners did not produce any document to show their possession and enjoyment of the subject property except the Judgment and Decree passed in O.S.No.118 of 1996 on the file of the District Munsif Court, Dhenkanikottai.

5. The impugned order further reveals that the fourth respondent submitted Adangal for the Fasli 1416, 1417, 1418, 1420 and copy of the registered sale deeds with regard to the property comprised in Survey No.490 to an extent of 1.32.5 hectares and finally registered in the name of the fourth respondent herein. Thereafter, the fourth respondent also created a third party encumbrance over the subject property on 05.08.2014. The name of the petitioners or their forefathers' name are found in the revenue records. In fact, the subject land comprised in Survey No.490 is classified as Government waste land as per the Re-survey and Re-settlement records. It was stood in the name of the Chikkaveerayya, son of Sivarudhramoorthy in patta No.263 as per Pre-UDR.

6. Whereas, the petitioners name or their ancestors name were not registered in the records in respect of the subject property. Though the petitioners did not produce any document to show their possession and enjoyment of the subject property, the petitioners produced the Judgment and Decree passed in O.S.No.118 of 1996 dated 31.01.2001. Admittedly, the fourth respondent or their vendors did not prefer any appeal suit as against the Judgement and Decree dated 31.01.2001.

7. The learned counsel for the petitioners also submitted that the petitioners is in possession and enjoyment of the subject property and they would be able to prove his possession and enjoyment before the first respondent. Though notice was served to the fourth respondent, no one appeared on behalf the fourth respondent.

8. Considering the above, the impugned order in Pa.Mu.32855/2008/J-2, dated 24.12.2014 passed by the first respondent, is hereby set aside. The matter is remanded back to the first respondent for fresh disposal. It is made clear that the first respondent is directed to issue notice to the petitioners and the fourth respondent and other parties, if any, within a period of two weeks and after giving an opportunity of hearing to produce documents in support of their respective claim and pass orders on merits and in accordance with law, within a period of twelve weeks thereafter.



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9. In the result, the Writ Petition stands allowed. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

Lpp/mn

To

1.The District Revenue Officer,
District Collector's Office,
Krishnagiri,
Krishnagiri District.

2.The Sub Collector,
Sub Collector Office,
Hosur,
Krishnagiri District.

3.The Tahsildar,
Taluk Office,
Dhenkanikottai,
Krishnagiri District.

+1cc to Mr.R.Bharath Kumar, Advocate, S.R.No.54073
+1cc to the Government Pleader, S.R.No.54270

W.P.No.28059 of 2017
and
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GPL(CO)
CB(12/11/2021)