



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2022

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.NO.11860 OF 2009

AND

M.P.NO.1 OF 2009

1. R.Booma Devi

2. K.V.Venkatesh

Petitioners 1 & 2 represented by
Power Agent P.Palanisamy,
Having residing

3. K.V.Rangesh

... Petitioners

.Vs.

1. The Special Deputy Collector,
Revenue Court,
Trichirappalli.

2. The Revenue Inspector (Executive),
Revenue Court,
Trichirappalli.

3. The Village Administrative Officer,
Marakalampatti,
Tirunchengode Taluk,
Namakkal District.

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India praying to issue an appropriate order or direction or Writ of Mandamus directing in the nature of a Writ of Mandamus directing the 2nd respondent to execute the order passed by the 1st respondent dated 05.06.2003 in E.P.Nos.404, 409, 412, 418, 422, 423 & 425/2002; dated 10.07.2003 in E.P.Nos.405, 407, 408, 411, 420, 421, 424, 428 to 431/2002 and dated 07.08.2003 in E.P.No.406/2002.



WEB COPY

For Petitioners : Mr.R.Bharanidharan

For Respondents : Mr.M.Murali
Government Advocate

O R D E R

This Writ Petition has been filed by the petitioners seeking to issue a Writ of Mandamus directing the 2nd respondent to execute the orders passed by the 1st respondent dated 05.06.2003 in E.P.Nos.404, 409, 412, 418, 422, 423 & 425/2002; dated 10.07.2003 in E.P.Nos.405, 407, 408, 411, 420, 421, 424, 428 to 431/2002 and E.P.No.406/2002 dated 07.08.2003.

2. The case of the petitioner is that the land measuring to an extent of 68.26 acres in Survey Nos.3/1, 3/2, 4/1, 4/2, 12/1, 12/2, 12/3, 12/4, 12/5, 18/1, 18/2, 20, 42/1, 46/2, 56/4, 56/5, 56/6, 56/7, 56/8, 56/9, 56/10, 56/11, 59/1, 59/2, 59/3, 66/2, 66/3, 66/4, 66/5, 66/6, 66/7, 71/2 & 79/5 situated at Marukkalampati Village, Tiruchengode Taluk were the ancestral properties of one Azhaga Singarachari, son of Tirumalachari. Further Azhaga Singarachari, entered into a registered partition deed dated 02.03.1942 with his four sons namely Srinivasachari, Krishnamachari, Gopalan and Narayanan. The said Azhaga Singarachari entered into a partition deed during his life time had leased out the property to various tenants under 12 registered lease deeds dated 01.03.1905, 17.03.1905, 19.03.1905 and 20.03.1905 to cultivate and harvest the land under the above said permanent leases.

3. While so, the cultivating tenants filed an application before the Settlement Tahsildar, Salem under Section 11 of the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari Act) 1963, to issue patta in their names stating that the lease in their favour is permanent (Kudivaram) and that they are entitled to Ryotwari Patta and obtained the same vide order dated 28.01.1968 passed by the Settlement Tahsildar, Salem.

4. As against the order of the settlement Tahsildar, Salem, the said Srinivasachari filed an appeal before the Minor Inams Abolition Tribunal, Salem in M.A.No.41 of 1968. The appellate Tribunal without considering the grounds raised by the said Srinivasachari, confirmed the order of the settlement Tahsildar, Salem by his order dated 13.12.1972. As against the order passed by the Appellate Tribunal, the said Srinivasachari filed an



appeal before the Court in S.T.A.No.76 of 1974, wherein the Division Bench of this Court after perusing the entire records and allowed the appeal and subsequently the orders of the Tribunal confirming the order of the Settlement Tahsildar of Salem were set aside and held that Srinivasachari is entitled to Ryotwari patta under Section 8(1) of the Act 30 of 1963.

5. In view of the order passed by this Court in S.T.A.No.76 of 1974, the settlement Tahsildar cancelled the patta granted in the name of cultivating tenants on 08.03.1980. Thereafter, some of the lessee of the land filed several suits on the file of the District Munsif Court at Tiruchengode seeking the relief of declaration of their title in respect of the property. Out of the above suits, the suits in O.S.Nos.287/1981, 288/1981, 359/1981, 659/1981 were dismissed for non-prosecution. No steps have been taken to restore the above suits and hence the judgment and decree dismissing the above suits have reached finality. The remaining suits held in favour of plaintiff therein. Aggrieved by the decree one Kandasamy Gounder, who is the plaintiff in O.S.No.657 of 1981 had filed an appeal in A.S.No.145 of 1992 on the file of the District Court at Salem. The said appeal A.S.No.145 of 1992 was dismissed for default on 19.11.1992. All the appeals filed against Srinivasachari reached finality.

6. Subsequently, the said Srinivasachari died intestate on 15.05.1985 leaving behind his two daughters namely R.Boomadevi/ 1st petitioner and K.V.Sundaravalli, who died leaving behind her two legal heirs K.V.Venkatesh/second petitioner and K.V.Rangesh/ 3rd petitioner. Thereafter, the petitioners herein for herself and as power agent of petitioner 2 and 3, have filed a petition for eviction on the ground that they failed to pay the lease amount for the period 1989-1990 to 2000-2001, before the first respondent. In turn Revenue Court passed an order dated 27.05.2002 to pay arrears of lease amount on or before 27.07.2002 to tenants and had directed the second respondent to secure and hand over possession of the properties to the petitioners. The first petitioner herein gave a representation to the Special Deputy Collector (Revenue, Tiruchirapalli)/first respondent to execute the order. The special Deputy Collector forwarded the representation to the Revenue Inspector, who instead of executing the order had postponed execution on the ground that tenants had produced patta in their names and "A" Register which shows that the property stands in the names of the person who are cultivating the lands and held that the revenue records are not in the name of the petitioners and hence the execution of the eviction order can be done only after deciding the title of the petition mentioned property. It was



also further held that the order of the Revenue Inspector (Executive), Trichirappalli/second respondent herein goes against the order of the Division Bench of this Court in S.T.A.No.76 of 1974.

WEB COPY

7. The learned counsel for the petitioners contended that the authorities concerned have not abided by the orders passed by this Court in S.T.A.No.76 of 1974. He further contended that the petitioners have inherited the properties through their ancestors and they are the absolute owner of the properties. Hence prays to execute the order passed by the first respondent and allow this writ petition.

8. Learned Government Advocate appearing for the respondents submit that the patta stands in the name of the cultivating tenant and the revenue records also does not show the names of the petitioners and such being the case, the respondents had rightly not evicted the petitioners.

9. This court gave its anxious consideration to the submissions advanced by the learned counsel on either side and perused the materials available on record.

10. It is evident from the materials available on record that the 2nd respondent has not taken any steps to evict the cultivating tenants till 05.06.2003, the date of passing of the eviction order. Even as early as on 04.09.1978, orders have been passed in favour of the petitioners in STA No.76/1974. The said order has attained finality and the same has not been challenged in the manner known to law. However, subsequent to the said order the cultivating tenants have obtained patta. However, it is not known as to the basis on which the patta has been given to the cultivating tenants. Procedure mandated is that the petitioner ought to have been heard before any order is passed.

11. Be that as it may. When once the title and right of the petitioners to the land has attained finality and eviction order has been passed as early as on 05.06.2003, the 2nd respondent is bound to execute the said order. However, in the case on hand, the 2nd respondent has not executed the direction, which act of the 2nd respondent is unsustainable.



12. For the reason aforesaid and in view of the facts and circumstances as narrated above, this Court directs the respondents to implement the orders dated 05.06.2003, 10.07.2003 and 07.08.2003 for evicting the cultivating tenants from the property belonging to the petitioner within a period of twelve weeks from the date of receipt of a copy of this order. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

vsn

To

1. The Special Deputy Collector,
Revenue Court,
Trichirappalli.
2. The Revenue Inspector (Executive),
Revenue Court,
Trichirappalli.
3. The Village Administrative Officer,
Marakalampatti,
Tirunchengode Taluk,
Namakkal District.

+1cc to Mr.R.Karthikeyan, Advocate, S.R.No.9755
+1cc to the Government Pleader, S.R.No.10775

W.P.NO.11860 OF 2009 AND
M.P.NO.1 OF 2009

RSI (CO)
PBS/07/03/2022