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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.13775 OF 2016

AND

W.M.P.NO.12080 & 26365 OF 2016 AND W.M.P.NO.25280 OF 2017

1. P.Mohana
2. C.Poulsankar

...Petitioners

Vs.

1. The Revision Authority / District Revenue Officer,
Tiruvallur District,
Tiruvallur - 610 001.
2. The Revenue Divisional Officer,
Poneri - 601 204.
3. Tahsildar,
Ponneri Taluk,
Ponneri - 601 204.
4. Ellaiyan
5. Arunagiri
6. Mothee Bee

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the proceedings in Rc.No.17136/2015 (B3) dated 08.03.2016 on the file of the 1st respondent herein and to quash the same and to direct the respondents 1 to 3 to restore the Patta Nos.2826, 2832 and 2833 in respect of the lands bearing Survey No.267 to an extent of 1 acre and 32 cents, Survey No.265 to an extent of 2 acres and 37 cents, Survey No.266 to an extent of 1 acre and 42 cents and Survey No.334/3 to an extent of 0.27.0 Hectares corresponding to 67 ½ cents, all situated in Gnayar Village in Ponneri Taluk and Tiruvallur District, in the name of the 1st petitioner, within a time frame as may be fixed by this Court.



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For Petitioner : Ms.Elizabeth Ravi
for Mr.P.Raja

For Respondents : Mr.V.Veluchamy, AGP, for R1 to R3
Mr.L.Rajendran, for R4 & R5
Mr.A.Sikkandar, for R6

O R D E R

The petitioners have filed this writ petition seeking issuance of a Writ of Certiorarified Mandamus to call for the records of the proceedings dated 08.03.2016 passed by the 1st respondent in Rc.No.17136 / 2015 (B3), quash the same and consequently direct the respondents 1 to 3 to restore the Patta Nos.2826, 2832 and 2833 in the name of the 1st petitioner.

2. The case of the petitioners is that, 1st petitioner is the wife of the 2nd petitioner. The properties comprised in Survey No.267 to an extent of 1 acre and 32 cents, Survey No.265 to an extent of 2 acres and 37 cents, Survey No.266 to an extent of 1 acre and 42 cents and Survey No.334/3 to an extent of 0.27.0 Hectares corresponding to 67 ½ cents, situated at Gnayar Village in Ponneri Taluk and Tiruvallur District, are ancestral properties of the second petitioner and the same was possessed and enjoyed by his father, one Chinnadurai and patta was also issued in favour of his father on 04.03.1983 by the 3rd respondent in Patta No.504. Thereafter, the said Chinnadurai executed a will dated 03.06.1989 in favour of the 2nd petitioner. Thereafter, the 2nd petitioner's father passed away on 04.01.1993 and the said will came into force and the computerised patta No.2826 was issued in favour of the 2nd petitioner. The 2nd petitioner in turn executed a settlement deed dated 06.09.2010 in favour of the 1st petitioner in respect of the land in Survey No.267 and the same was registered as Document No.7325 of 2010. Further, the 2nd petitioner executed another settlement deed dated 06.09.2010 in favour of the 1st petitioner in respect of the properties comprised in Survey Nos.265 and 266 and the same was registered as Document No.7326 of 2010. Therefore, the 1st petitioner is in absolute possession and enjoyment of the said properties and thereby, 3rd respondent effected patta transfer in favour of the 1st petitioner by issuing a computerized patta No.2832, vide proceedings No.3481/10-1, in respect of the lands comprised in Survey Nos.265, 266 and 379 and another Patta No.2833, vide proceedings No.3000/10-1 in respect of the land comprised in Survey No.267.



3. While such being the case, the 5th respondent made attempts to change the patta in respect of the land comprised in S.No.265, to an extent of 0.30 cents, for which, the 2nd petitioner made an objection dated 27.03.2013 before the 3rd respondent. Thereafter, the 3rd respondent sent a notice dated 11.08.2014 to the 2nd petitioner, stating that an application dated 27.06.2014 was received from 6th respondent for cancellation of patta in respect of the land in S.No.334/3 and directed the 2nd petitioner to appear before him for enquiry on 03.09.2014. Upon verification, the petitioners came to know that, the respondents 4 to 6 have entered into a sale transaction creating encumbrance on the property in S.No.334/3 and the same was registered as Document No.1255 of 2012. Therefore, the 1st petitioner filed a suit in O.S.No.208 of 2014 as against the 4th and 6th respondents, for declaration of title of 1st petitioner in respect of the said land and for permanent injunction and another suit in O.S.No.199 of 2015 as against the 4th and 5th respondents, for declaration of title of 1st petitioner in respect of the lands comprised in S.Nos.265, 266 and 267 and for permanent injunction. Thereafter, all the parties appeared before the 3rd respondent and after conducting the enquiry, the 3rd respondent sent a report dated 21.01.2015 to the 2nd respondent. Pursuant to the said report, the 2nd respondent vide proceedings dated 12.06.2015, cancelled the Patta Nos.2826, 2832 and 2833 and restored the patta as per the Updated Records and directed the 3rd respondent to receive proper applications from the parties and after verifying the documents and possessions, sub-division may be effected and patta shall be issued. Aggrieved by the above said order, the 2nd petitioner preferred a Revision petition before the 1st respondent on 28.08.2015 and the same was dismissed, vide proceedings dated 08.03.2016 in Rc.No.17136/2015(B3), confirming the order passed by the 2nd respondent. Challenging the same, the present writ petition is filed.

4. Learned counsel for the petitioners submitted that, immediately after knowing about the complaint filed by the 5th respondent, the 1st petitioner filed two suits in O.S.Nos. No.208 of 2014 and 199 of 2015 before the District Munsif Court, Ponneri, for declaration of title of 1st petitioner in respect of the said lands and for permanent injunction, as against the private respondents and for cancellation of the sale deed dated 08.02.2012 in Document No.1255 of 2012, and the same are pending. While such being the case, the revenue officials have cancelled the patta issued in favour of the 1st petitioner, which is not sustainable, as the revenue officials are not the competent authority to decide upon the title. Hence, he prayed for appropriate orders.

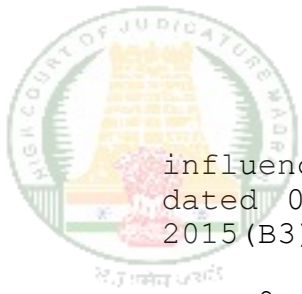


5. Learned counsel appearing on behalf of the respondents submitted that, the 4th respondent and the father of the 2nd petitioner are the original owners of the above disputed properties. In order to deprive the rights of the 4th respondent, the 2nd petitioner had illegally obtained patta in his favour, without the knowledge of the 4th respondent and executed two settlement deeds in favour of his wife/ 1st petitioner. Further, the 4th and 5th respondents have executed sale deed in favour of the 6th respondent. Therefore, the 1st and 2nd respondents have rightly restored the pattas in respect of the disputed properties in the name of the original owners, namely, the father of the 2nd petitioner and 4th respondent. Further more, learned counsel for the official respondents fairly conceded that, this Court may grant permission to the petitioner as well as the private respondents to file fresh application for issuance of patta, after succeeding in the pending suits filed by the 1st petitioner. Hence, he prayed for the dismissal of the present Writ petition.

6. Heard the arguments advanced by the learned counsel on either side and perused the materials available on record.

7. It is the case that the disputed properties were originally owned by the 2nd petitioner's father and the 4th respondent, however, there were subsequent transfer of patta in the name of the petitioners and the private respondents and finally, the pattas were restored in favour of the 2nd petitioner's father and the 4th respondent. It is also not in dispute that, the 1st petitioner has filed two different suits in O.S.Nos. No.208 of 2014 and 199 of 2015 before the District Munsif Court, Ponneri, for declaration of title of 1st petitioner in respect of the disputed lands and for permanent injunction, as against the private respondents and for cancellation of the sale deed dated 08.02.2012 in Document No.1255 of 2012 and the same are pending. However, it is pertinent to note that, unless the issue as to title is decided by the competent Civil Court, issuing patta in favour of the 1st petitioner or the private respondents will not be proper.

8. In view of the above, the revenue officials have rightly restored the patta in the name of the original owners and this Court is not inclined to interfere with the impugned order dated 08.03.2016 passed by the 1st respondent. However, liberty is granted to the petitioners and to the private parties to ventilate their grievances before the Competent Civil Court, where the suits are pending and after succeeding in the above said suits, the petitioners / private respondents are at liberty to file application before the revenue officials to obtain patta in their favour. Further, the Trial Court is directed to decide upon the suits pending without being



influenced by any of the observations made in the impugned order dated 08.03.2016 passed by the 1st respondent in Rc.No.17136 / 2015(B3) and the present order of this Court.

9. With the aforesaid directions, this Writ Petition is disposed of No costs. Consequently, connected Miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

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Sub Assistant Registrar

skt

To

1. The Revision Authority / District Revenue Officer,
Tiruvallur District,
Tiruvallur - 610 001.
2. The Revenue Divisional Officer,
Ponneri - 601 204.
3. Tahsildar,
Ponneri Taluk,
Ponneri - 601 204.

+1cc to Mr.P.Raja, Advocate, S.R.No.22331

+2ccs to Mr.L.Rajendran, Advocate, S.R.No.22315, 22532

W.P.No.13775 of 2016
and

W.M.P.No.12080 & 26365 of 2016 and W.M.P.No.25280 of 2017

SS(CO)
PM/17/05/2022