



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2022

CORAM:

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. No.7152 of 2004

and

WMP No.8436 of 2004

1. R. Dhanasekaran
2. R. Mahalingam
3. R. Mani
4. Poongothai

....

Petitioners

Versus

1. The Special Commissioner /
Commissioner for Land Administration
Chepauk,
Chennai - 5.

2. District Revenue Officer,
Salem.

3. Revenue Divisional Officer,
Salem.

4. Tahsildar,
Salem Taluk, Salem.

5. Karumalai
6. Pappa
7. Sampooram
8. Ramayee
9. Panchali
10. Sampath
11. Vasanthan
12. Narendran

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorari to call for the entire records in connection with the impugned order of the first respondent in his proceedings Ref. No.D. Dis.R.P.1/2003 (K4/37795/02) dated 12.02.2004 and quash the same.

For Petitioners
For Respondents

: Mr. Ramesh Venkatachalapathi
: Mr.A. Anandan, G.A. for RR1 - 4



ORDER

For quashment of the impugned order of the first respondent in his proceedings Ref. No.D. Dis.R.P.1/2003 (K4/37795/02) dated 12.02.2004, this writ petition has been filed.

2. The case of the petitioners is that originally the subject land in S. No.29/3 of Sandhiyur Attayampatti village, Salem Taluk was registered in the name of Raman, who is the paternal great grand-father of the petitioners and during his life-time, the said property was treated as an independent property and never been a joint family property. It is averred that the said Raman along with the petitioner's father were cultivating the property and their father is in continuous possession of the property. Subsequently, without any notice, the respondents 5 to 8 fraudulently acted upon and included their names in the patta proceedings. Constrained over the said proceedings, their father approached the 4th respondent and the 4th respondent after due enquiry passed proceedings for issuance of separate patta in the name of petitioner's father. Aggrieved over the said proceedings, respondents 5 to 8 preferred an appeal, belatedly i.e., after completion of 10 years, before the 3rd respondent and revision before the 2nd respondent. Owing to passing of balanced order by the 2nd respondent, the petitioners have not preferred any revision before the 1st respondent. Subsequently respondents 5 to 8 preferred revision, belatedly i.e., after 18 years, before the 1st respondent raising other grounds not raised in the earlier revision. It is alleged that without considering the above facts as well the pending suit in O.S. No.604 of 1995 on the file of Sub Court, Salem filed by the Legal Heirs of the said Raman, the 1st respondent has allowed the said revision, by passing the impugned Proceedings dated 12.02.2004. Challenging the said Proceedings, the petitioners have approached this Court by invoking the extraordinary jurisdiction under Article 226 of the Constitution of India with the aforesaid prayer.

3. Learned counsel for the petitioners submitted that originally patta was granted in favour of petitioner's father by the 4th respondent, which was confirmed by the 3rd respondent and the 2nd respondent, while passing orders has observed about the pendency of the suit in O.S. No.604 of 1995 on the file of the Sub-Court, Salem. Subsequently during pendency of this writ petition, the parties have settled the matter outside the Court in O.S. No.604 of 1995 on the file of Sub Court, Salem, which was renumbered as O.S. No.7 of 2002, Fast Track Court, Salem and arrived at a compromise between themselves and thereby, they obtained a decree. In the meantime, the 1st respondent has passed the impugned Proceedings. Hence, this Court may issue direction to the petitioners to file fresh application with the official respondents for issuance of patta based on the said compromise decree.



4. Mr.A. Anandan, learned Government Advocate appearing for respondents 1 to 4 has no objection for issuance of such a direction by this Court.

5. Heard the learned counsel on either side and perused the materials placed on record.

6. Considering the facts and circumstances of the case and in view of the fair stand taken by the learned counsel on either side, this Court without going into the merits of the case permit the petitioners as well as private respondents to make fresh application before the revenue officials based on the compromise decree, within a period of two weeks from the date of receipt of a copy of this order. If such an application is filed, the official respondents are directed to pass orders on merits and in accordance with law based on the said decree, which is settled out of Court, within a period of twelve weeks thereafter. Further, the parties are also at liberty to file a joint application before the revenue officials for issuance of patta to resolve the issue.

7. With the aforesaid directions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

vsi2
To
1. The Special Commissioner /
Commissioner for Land Administration
Chepauk,
Chennai - 5.

2. The District Revenue Officer,
Salem.

3. The Revenue Divisional Officer,
Salem.

4.The Tahsildar,Salem Taluk, Salem.
+1 cc to Mr.M.Sriram, Advocate Sr.NO. 17709

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