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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.4661 of 2022 & 13975 of 2021
and W.M.P.Nos.4779 & 4781 of 2022 & 14844 of 2021

1. S.Karunanithi
2. S.Palaniappan ... Petitioners in both W.P.'s
Vs.
1. Deputy Inspector General of Registration,
O/o. Deputy Inspector General of Registration,
Thanjavur.
2. The District Registrar (Administration),
O/o. District Registrar,
Nagapattinam.
3. R.Devendran ... Respondents in W.P.No.4661 of 2022
1. The District Revenue Officer,
O/o. Revenue Office Thiruvarur,
Thiruvarur.
2. The Revenue Divisional Officer,
O/o. Revenue Divisional Office Thiruvarur,
Thiruvarur.
3. The Tahsildhar,
O/o. Tahsildhar Thiruvarur,
Thiruvarur.
- 4.Vazhuvoor Rav ... Respondents in W.P.No. 13975 of 2021

PRAYER in W.P.No.4661 of 2022: The Writ Petition filed under Article 226 of Constitution of India, pleased to issue a Writ of certiorari or any other order or direction in nature of writ by calling for the records leading to the order passed by the 1st respondent vide Mu.No.1645/Aa1/2020, dated 11/11/2021 and quash the same.

PRAYER in W.P.No.13975 of 2021: The Writ Petition filed under Article 226 of Constitution of India, pleased to issue a Writ of certiorari or any other order or direction in nature of writ by calling for the records leading to the order passed by the 1st respondent vide Na.Ka.5491/2017/Aa1, dated 15.04.2021 and quash the same.



For Petitioners in both W.P.'s : Mr.A.Tamilvanan
For Respondents in both W.P.'s : Mr.Yogesh Kannadasan,
Special Government Pleader

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COMMON O R D E R

Writ Petition has been filed to call for the records leading to the order passed by the 1st respondent vide Mu.No.1645/Aa1/2020, dated 11/11/2021 and quash the same.

2. Writ Petition has been filed to call for the records leading to the order passed by the 1st respondent vide Na.Ka.5491/2017/Aa1, dated 15.04.2021 and quash the same.

3. Mr.Yogesh Kannadasan, learned Special Government Pleader takes notice for the respondents 1 & 2 in in W.P.No.4661 of 2022 and for the respondents 1 to 3 in W.P.No. 13975 of 2021

4. Since no adverse orders are passed against the private respondents, notice to them is dispensed with.

5. The case of the petitioners is that the properties bearing T.S.Nos.2609, 2610 & 2611, in Ward 2, Block 43, situated in Therkusetthi village, Thiruvarur Town, Thiruvarur District, originally belong to the petitioners fore-fathers and hereditarily, the same was in the peaceful possession and enjoyment of the petitioners' family. As far as the Revenue Records are concerned, the survey would reflect the name of the petitioners' fore-father Gowriraja. After the death of one Samiyappan, his son one Kuppusamy succeeded to the properties and had executed an unregistered Will dated 16.09.1951, bequeathing his properties to his sons Dhatchanamoorthis and Selvaganapathy and as per the said Will, the subject properties was given to the share of Selvaganapathy and accordingly, the petitioners, who are the sons' of Selvaganapathy, have got the properties vide settlement deed dated 08.10.2008.

6. Thereafter, the petitioners applied for the mutation of Revenue Records in the year 2014. The Tahsildhar also transferred the Patta in the name of the petitioners, by order dated 15.06.2014. Aggrieved by the same, the 4th respondent in W.P.No. 13975 of 2021 had preferred an appeal before the 2nd respondent/ Revenue Divisional Officer in W.P.No.13975 of 2021 and restored the Revenue entry prior to mutation in the name of Gowrirajan Nadhaswarakaran, by order dated 28.04.2017, against which, revision petition had been filed by the petitioners before the 1st respondent/ District Revenue Officer in W.P.No.13975 of 2021, and it was dismissed by order dated 15.04.2021. As against the same, the petitioners had filed writ petition in W.P.No.13975 of 2021.



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7. In the meanwhile, the 3rd respondent in W.P.No.4661 of 2022 made application before the 2nd respondent in W.P.No.4661 of 2022 for cancellation of the settlement deed executed in the petitioners' name by their father, on the ground that the registration was a fraudulent one. Thereafter, the 2nd respondent in W.P.No.4661 of 2022 allowed the application filed by the 3rd respondent in W.P.No.4661 of 2022 declaring that the petitioners' document is a fraudulent one, against which, the petitioners preferred an appeal before the 1st respondent in W.P.No.4661 of 2022. The 1st respondent in W.P.No.4661 of 2022 had also confirmed the order passed by the 2nd respondent in W.P.No.4661 of 2022.

8. Thereafter, the 2nd respondent in W.P.No.4661 of 2022 restored the original document in the name of the original entry on the ground that there is a civil dispute pending between the petitioners and the parties with regard to the subject properties, as against which, the petitioner filed an appeal before the 1st respondent in W.P.No.4661 of 2022. The 1st respondent in W.P.No.4661 of 2022 cancelled the petitioners' settlement deed and restored the original deed in favour of the original owners, challenging which, the present writ petitions have been filed.

9. The learned counsel appearing for the petitioners in both W.P.'s submitted that both the writ petitions have been filed against the cancellation of the Patta and the settlement deed executed by their father in the name of the petitioners. However, for the very same properties, a civil suit is pending in O.S.No.53 of 2017 on the file of the District Munsif, Thiruvarur for declaration and injunction and the said suit was dismissed, against which, the petitioners filed an appeal before the Sub Court, Thiruvarur in A.S.No.7 of 2020 and the same is pending.

10. In view of the above facts and circumstances, this Court may permit the petitioners in both writ petitions to canvass all those issues before the lower Appellate Court, where the appeal is pending and the present impugned orders granting patta may be considered, subject to the result of the said appeal filed by the petitioners.

11. In view of the fair submission made by the learned counsel appearing for the petitioners, this Court is not inclined to interfere with the impugned orders and if anything would be made, it will adversely affect the interest of the petitioners, the respondents as well as the other aggrieved parties. Without expressing any opinion on the merits of the case, these writ petitions are dismissed. However, liberty is granted to the petitioners to canvass all those points before the lower appellate Court and both the impugned orders may be subject to the result of the appeal pending before the lower appellate court.



12. Accordingly, both the writ petitions are dismissed. If the petitioners succeed in the A.S.No.7 of 2020, they can work out their remedy in accordance with law. Consequently, connected miscellaneous petitions are also closed. No costs.

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Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

rgi/nhs
To

1. Deputy Inspector General of Registration,
O/o. Deputy Inspector General of Registration,
Thanjavur.
2. The District Registrar (Administration),
O/o. District Registrar,
Nagapattinam.
3. The District Revenue Officer,
O/o. Revenue Office Thiruvarur,
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4. The Revenue Divisional Officer,
O/o. Revenue Divisional Office Thiruvarur,
Thiruvarur.
5. The Tahsildhar,
O/o. Tahsildhar Thiruvarur,
Thiruvarur.

+2 ccs to Mr.A.Tamilvanan, Advocate Sr.NO. 14820

+1 cc to Government Pleader Sr.NO. 15025

W.P.Nos.4661 of 2022 & 13975 of 2021
and W.M.P.Nos.4779 & 4781 of 2022
and 14844 of 2021

GMR(CO)
A.SK(24/03/2022)