

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.28603 of 2012

1. R.Ravi @ Parthasarathy
2. R.Mohana

... Petitioners

Vs.

1. The District Collector,
Kancheepuram District,
Kancheepuram.
2. The District Revenue Officer,
Kancheepuram.
3. The Revenue Divisional Officer,
Kancheepuram.
4. The Tahsildar,
Kancheepuram Taluk,
Kancheepuram.
5. K. Peermothien

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the 4th respondent to issue the patta in favour of the petitioners in respect of the lands comprised in Survey No.32/2 admeasuring 0.36 cents, Survey No.33/1 admeasuring 0.16 cents, Survey No.32/1 admeasuring 0.37 cents, Survey No.90/2 admeasuring 0.57 cents and Survey No.191/1B3A admeasuring 0.4 cents after conducting a proper enquiry and delete the existing names in the Patta in respect of above said lands situated at Naickenkuppam Villagem Kancheepuram Taluk and District.

For Petitioner : Mr.M.Ramesh for
Mr.S.Jayakumar

For Respondents: Mr.G.Nanmaran
Special Government Pleader

ORDER

This Writ Petition has been filed seeking for a Writ of Mandamus directing the 4th respondent to issue the patta in favour of the petitioners and delete the existing names in the Patta in respect of above said lands situated at Naickenkuppam Village, Kancheepuram Taluk and District.

2. The case of the petitioners is that the 1st petitioner purchased the disputed land from the legal heirs of Manickam Naicker, Senthamarai Ammal and M.Ranganathan who executed a Power of Attorney in favour of the him on 12.05.2010, vide Document No.391 of 2010 and sold the lands comprised in S.Nos.32/1, 32/2 and 33/1 of a total extent of 0.89 cents in favour of one Mohana / 2nd petitioner herein through a sale deed vide Document No.2188 of 2011 dated 11.03.2011 before SRO. After the execution of the above said sale deed, the petitioners have made representation to the Tahsildar, Kancheepuram to transfer the patta in the name of the petitioner on 08.05.2008. But no action has been taken in favour of the petitioner. Thereafter, the petitioners on inquiry, came to know that the respondents have issued patta to the third parties, who have no right over the above mentioned properties and more particularly, the 4th respondent has made mutation of names in the Revenue Records in respect of the above said lands. Thereafter, the petitioners have made representation to the Revenue authorities. Since the said representation was not considered, the petitioners have approached this Court with the above said prayer.

3. The learned counsel for the petitioners submitted that the 1st petitioner purchased the property from the legal heirs of Manickam Naicker, Sethamarai Ammal and M.Ranganatham and sold the property to the 2nd petitioner. However, subsequently, the petitioners came to know that the patta was transferred in favour of the 5th respondent. Thereafter, the petitioners have made representations on 08.05.2008 and 23.12.2011 to the Tahsildar, Kancheepuram to transfer the patta in the name of the petitioners and the same was received by the Tahsildar / 4th respondent herein on 28.12.2011. However till date, no order was passed by the Tahsildar. Thus, the petitioners have approached this Court to consider the representations of the petitioners and to direct the 5th respondent to file Legal Heir Application and pass appropriate orders on merits and in accordance with law.

4. The learned Special Government Pleader for the respondents submitted that though the 2nd petitioner claims title in respect of the above said property, subsequently the patta was transferred in the name of the 5th respondent and admittedly the patta does not confer title and if at all the petitioners

have any grievance, they have to settle the dispute before the competent Civil Court. Thereafter, the petitioners have to make an application before the competent Authority, for cancellation of the patta. Without conferment of the title between the petitioners and the 5th respondent, cancellation of patta made in respect of 5th respondent, is not sustainable. Hence, the grievance of the petitioners before this Court is not sustainable.

5. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

6. The facts in the present case are that the 1st petitioner purchased the disputed property from the legal heirs of Manickam Naicker, Sethamarai Ammal and M.Ranganatham and executed Power of Attorney in favour of him on 12.05.2010, vide Document No.391 of 2010 before the Sub Registrar Office. Thereafter, the said property was sold to the 2nd petitioner, thereby, the petitioners came to know that the patta was transferred in the name of the 5th respondent and the petitioners claims that they made an application for cancellation of patta in the year 2008 and thereafter made repeated representations under the Right to Information Act to the Tahsildar, namely the 4th respondent herein for cancellation of patta or transfer of patta. However, the petitioners have not taken any steps to file application before the Tahsildar for cancellation of patta. In the absence of any such application under the Patta Passbook Act, this Court cannot issue any affirmative order in favour of the petitioners and subsequently, the petitioners came to know that the 5th respondent passed away and he has not taken any steps to serve notice to bring the legal heirs of the 5th respondent on record. However, in view of the same, this Court is not inclined to issue positive direction. However, liberty is granted to the petitioners to work out their remedy in the manner known to law before the competent Civil Court and thereafter it is open to the petitioners to file appropriate application before the appropriate forum. If such application is filed by the petitioners, the Tahsildar may pass orders after giving opportunity of hearing to the legal heirs of the deceased 5th respondent in the manner known to law.

7. With the above observations this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar(CS-VII)

//True copy//

Sub Assistant Registrar

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To

1. The District Collector,
Kancheepuram District,
Kancheepuram.
2. The District Revenue Officer,
Kancheepuram.
3. The Revenue Divisional Officer,
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4. The Tahsildar,
Kancheepuram Taluk,
Kancheepuram.

+1cc to Mr.M.Ramesh, Advocate SR.No.12392

W.P.No.28603 of 2012

SVI (CO)
GMV (18/03/2022)