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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2022

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.NO.28834 OF 2013

AND

M.P.NOS.1 AND 2 OF 2013

1. S.Gowri

2. Suseela

3. V.Devi

... Petitioners

Versus

1. The Tahsildar,
Cheyyur Taluk,
Taluk Office,
Cheyyur,
Kanchipuram District.

2. S.Parthasarathy Mudaliar

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorari calling for the impugned proceedings in Na.Ka.2738/2013/B2, dated 05.09.2013 on the file of the 1st respondent herein, quash the same.

For Petitioners : Mr.K.Govi Ganesan

For Respondents : Mr.T.Chezhiyan
Additional Government Pleader
For R1

Mr.N.Nagu Sah
For R2



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ORDER

This writ petition has been filed to quash the impugned proceedings in Na.Ka.2738/2013/B2, dated 05.09.2013 on the file of the 1st respondent herein.

The short facts leading to the filing of this writ petition are as follows :-

2. It is the case of the petitioners that they are the daughters of the 2nd respondent. It is averred that the 2nd respondent has executed a settlement deed in their favour in respect of the property owned by him, which was registered as Document No.5310 of 2006 on 26.12.2006 in the office of the SRO, Cheyyur. Pursuant to the settlement deed dated 26.12.2006, the petitioners are in absolute possession and enjoyment of the said property. They have also put up a fence and thereafter mutation of revenue records were effected. Subsequently, owing to some misunderstanding between them and the 2nd respondent, the 2nd respondent is attempting to cancel the settlement deed executed in their favour. To prevent the action of the 2nd respondent, they filed O.S.No.237 of 2009 on the file of District Munsif, Madurantangam for declaration of title and injunction. Pending suit, the 2nd respondent filed Writ Petition before this Court in W.P. No.27052 of 2010 and obtained orders to cancel the patta issued in their favour and for restoration of the same in his name. While so, the suit filed by them was decreed and relief of declaration and injunction was granted as prayed for. Aggrieved by the grant of such relief, the 2nd respondent preferred an appeal in A.S No.10 of 2013 on the file of Sub Court, Madurantagam. In the meanwhile, to their shock and surprise, the 1st respondent cancelled the joint patta granted in their favour and restored the same in favour of the 2nd respondent in proceedings No.Na.Ka.2738/2013/B2, dated 05.09.2013. Challenging the said proceedings, this writ petition has been filed.

3. Mr.K.Govi Ganesan, learned counsel for the petitioners submitted that though originally patta stood in the name of the 2nd respondent, he executed the settlement deed in favour of the petitioners and the names of the petitioners has been mutated in the revenue records. The petitioners are in enjoyment of the property in question for which a decree was also passed declaring their title inter alia granting a permanent injunction restraining the second respondent from cancelling the settlement deed unilaterally. The petitioners have also filed contempt petition complaining non-compliance of the order passed by the competent Court. While so, at the instance of the second respondent, the first respondent has passed the impugned proceeding, which is not in accordance with law. He also submits



that without following the due procedures contemplated under Clause 31 of Revenue Standing Order, the impugned proceeding has been passed by the first respondent. Accordingly, he prays for allowing of this writ petition.

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4. Per contra, Mr.T.Chezhiyan, learned Additional Government Pleader appearing for the first respondent submits that originally patta stood in the name of the 2nd respondent. He also submitted that in obedience to directions of this Court in W.P.No.27052 of 2010, the proceeding for cancellation of joint patta in favour of the petitioners has been taken up and the revenue records were restored in the name of the second respondent. He further submitted that the 1st respondent was not aware of the appeal suit preferred by the 2nd respondent, challenging the decreetal order of declaration and injunction passed in favour of the petitioners by the Trial Court. Also, he submitted that due procedures contemplated under the law has been followed. Hence, he prays for appropriate direction from this Court.

5. Mr.N.Nagu Sah, learned counsel for the second respondent submitted that as against the order passed by the Trial Court, Appeal Suit in A.S.No.10 of 2013 has been filed by the 2nd respondent, on the file of Sub Court, Madurantagam. He fairly submitted that the 2nd respondent has executed the settlement deed in favour of the petitioners, whereas due to some misunderstanding between the petitioners and the 2nd respondent, who is the original owner, attempts were made to cancel the joint patta. He further submitted that pending appeal, transfer of title in favour of petitioners will adversely affect the interest of the 2nd respondent that too at this old age of the 2nd respondent. Hence, he prays for dismissal of the writ petition.

6. This court heard the undivided arguments made by the learned counsel on either side and perused the materials placed on record.

7. The facts are not in dispute. Admittedly, the 2nd respondent is the father, who executed the settlement deed in favour of the petitioners, who are his daughters. It is admitted that owing to some misunderstanding between the petitioners and the 2nd respondent, the 2nd respondent attempted to cancel the joint patta issued in favour of the petitioners and prayed to restore the same in his name by way of filing writ petition. On perusal of records, it reveals that in the mean time, petitioners filed suit for declaration and title in O.S.No.237 of 2009 on the file of District Munsif, Madurantagam and subsequently, they got succeeded in obtaining a decree. Aggrieved by the decree of the Trial Court, the 2nd respondent



has also preferred appeal, which is pending before the Sub Court, Madurantagam. Such being the position, the 1st respondent passed the impugned proceedings against the petitioners, cancelling the joint patta and restored the same in favour of the 2nd respondent. On perusal of the impugned proceedings, it reveals that the first respondent did not afford an opportunity of hearing to the petitioners before cancelling the patta issued in their name. Even assuming that the first respondent cancelled the patta on the strength of the order passed by this Court in the writ petition, this Court has never directed the first respondent to cancel the patta without hearing the petitioners in whose name the patta stands. Furthermore, though old patta, adangal and chitta stands in the name of the 2nd respondent, this Court could not pass any favourable orders and can only sympathize with his sufferings that too at this old age, when he lost the case in the lower Court. Further, the 2nd respondent is entitled for transfer of patta in his name, if at all he succeeds the case in the appeal pending before the appellate court. In any event, in the absence of any interim order in the appeal, the impugned proceedings passed by the 1st respondent without hearing the petitioners, cancelling the patta and restoring it in the name of the second respondent cannot be countenanced. Thus, the impugned proceedings of the first respondent cannot be sustained in the eye of law and it is liable to be set aside.

8. For the aforesaid reasons, the proceedings in Na.Ka.2738/2013/B2, dated 05.09.2013 issued by the 1st respondent is set aside and the joint patta issued in the names of the petitioners is restored. In terms of the aforesaid view expressed by this Court, the 1st respondent is directed to restore the joint patta issued in the names of the petitioners by cancelling the impugned proceedings issued by him. However, liberty granted to the 2nd respondent to make fresh application with the 1st respondent, if he succeed in the appeal or if there is no other legal impediment in considering the claim of the second respondent.

9. In the result, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

vsi2



To

The Tahsildar,
Cheyyur Taluk,
Taluk Office,
Cheyyur,
Kanchipuram District.

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+lcc to Mr.K.Govi Ganesan, Advocate, S.R.No.14355
+lcc to Mr.N.Nagu Sah, Advocate, S.R.No.14398
+lcc to the Special Government Pleader, S.R.No.15081

W.P.NO.28834 OF 2013

SKM(CO)
PBS/05/04/2022