



W.P.No.23151 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2022

CORAM :
THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Writ Petition No.23151 of 2016
and W.M.P.Nos.19845 of 2016 & 493 of 2020

1.D.Thulasi
2.K.Dhanusu
3.L.Lalitha
4.G.Ranjitham
(1 to 4 rep. by Power Agent D.Sreedharan) ... Petitioners

Vs.

1.The District Collector,
Kanchipuram.
2.The Revenue Divisional Officer,
Chengelpet.
3.The Tahsildar,
Thiruporur, Chennai.
4.V.Perumal
5.Saraswathi
6.Rani
7.R.Prabhakaran

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India for



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issuance of a Writ of Certiorarified Mandamus calling for records relating to the proceedings in Na.Ka.32180/2013/N4 dated 02.06.2016 passed by the first respondent herein and quash the same and further direct the first respondent to cancel the patta issued in favour of the 4 to 7 respondents.

For Petitioners : Mr.Sairam

For Respondents 1 to 3 : Mr.U.Bharanidharan,
Additional Government Pleader

For Respondent 4 : Mr.T.Arockia Dass
for M/s.Dass & Viswa Associates

For Respondent 7 : Mr.P.B.Ramanujam

ORDER

The petitioners have filed these petitions seeking for issuance of Writ of Certiorarified Mandamus calling for records relating to the proceedings in Na.Ka.32180/2013/N4 dated 02.06.2016 passed by the first respondent herein and quash the same and further direct the first respondent to cancel the patta issued in favour of the 4 to 7 respondents.

2. The case of the petitioner is that the petitioner is the power agent of one Thulasi (petitioner's mother) Lalitha and Ranjitham who are uncles' wife



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and Dhanusu (younger sister of petitioner's mother) and they owned a property bearing Survey No.168/1 situated at Mambakkam Village, Thiruporur Taluk, Kancheepuram District to an extent of 1.34 acres of land. The said property is originally owned by the petitioner's predecessor viz., Abbayi Nadu and after his demise, the said property was transferred in the name of his son Kuppusamy Naidu. The said Kuppusamy Naidu died in the year 1952 and his wife Nagammal pledged the said land in favour of Muthiyalammal, wife of Chinnappa Naidu vide registered Doc.No.69 of 1953. After the death of Nagammal, her only legal heir Kalyani Ammal redeemed the document from the son of Muthiyalammal in the year 1959. After redemption on 30.05.1959, the said Kalyani Ammal enrolled the property for lease and thereafter, the lease was cancelled and the said property was in possession and enjoyment by the said Kalyani Ammal.

2.1. The said Kalyani Ammal has two daughters viz., Thulasi and Dhanusu and two sons viz., Lakshmikanthan and Govardhanan. The petitioner obtained a power of attorney from Thulasi. This being so, taking advantage of the vacant land, one person viz., P.Jagannathan residing in the Mambakkam Village obtained Patta fraudulently in his name for the subject



property. After his death, his legal heirs Perumal, Saraswathi and Rani, who are the respondents 4 to 6 herein changed the patta on their favour with the help of the Revenue Officials. Therefore, the petitioner's mother made a representation dated 27.11.2010 before the District Collector, Kanchipuram requesting to cancel the patta issued in favour of respondents 4 to 6. Subsequently, the respondents 4 to 6 alienate the subject property in favour of seventh respondent. Against the illegal alienation, the petitioner made a police complaint on 11.02.2011. Though the petitioner made a representation before the District Collector Kanchipuram, the said representation was not considered.

2.2. In view of the above, the petitioner has filed a writ petition in W.P.No.17747 of 2011 before this Court seeking to dispose the representation pending with the District Collector, Kanchipuram and this Court directed the petitioner to file an appeal before the second respondent against UDR patta granted in favour of the respondents 4 to 6. Pursuant to the direction, the petitioner preferred an appeal dated 20.03.2012 before the second respondent, however, no order has been passed. Hence, the petitioner filed another writ petition in W.P.No.1589 of 2013 to dispose the appeal



pending with the second respondent and this Court directed the second respondent to dispose the appeal within a period of eight weeks. Subsequent to the direction issued by this Court, the second respondent passed an order dated 18.09.2013, cancelling the patta granted in favour of the respondents 4 to 7 by verifying all the revenue records. The said order has been sent to the first respondent for approval and the first respondent without verifying the order and directed the second respondent to conduct a fresh enquiry.

2.3. After conducting fresh enquiry, the second respondent found that the said land is Karamboo and without any cultivation and passed an order dated 26.08.2014, proposing to cancel the patta assigned in the name of respondents 4 to 7 and submitted the same before the first respondent. Thereafter, the first respondent after conducting an elaborate enquiry issued a proceedings in Na.Ka.32180/2013/N4 dated 02.06.2016 holding that the patta will not determine the title and directed the petitioner to approach the Civil Court for declaration of title. Aggrieved over the same, the petitioner has filed this writ petition with the aforesaid prayer.

3. Learned counsel for the petitioners would submit that this court may



grants liberty to the petitioners to file an appropriate civil suit before the Competent Civil Court as against the impugned order passed by the first respondent and may directs the Civil Court to decide the issue in between the parties without influencing any of the observation made by the Revenue Officials.

4. Learned counsel appearing for the seventh respondent submitted that the subject property is owned by father of the fourth respondent and after his demise, the same was taken possession by the fourth respondent. Thereafter, the seventh respondent purchased the same through valid sale consideration. Now the revenue records stands in the name of seventh respondent, which cannot be interfered with. However, the learned counsel for the seventh respondent submitted that liberty may be granted to the petitioners to file a civil suit before the Competent Civil Court.

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

6. In view of the consent expressed by the learned counsel on either side, this court, without expressing any opinion on the merits of the case,



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grants liberty to the petitioner to file an appropriate civil suit before the Competent Civil Court as against the impugned order and on such filing, the Civil Court is directed to decide the issue in between the parties without influencing any of the observation made in the impugned order. The period during which the writ petition was pending before this Court is excluded for the purpose of limitation.

7. With the aforesaid observation, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes/No

Speaking Order : Yes/No

To:

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- 3.The Tahsildar,
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