



W.P.No.25353 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2022

CORAM :
THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Writ Petition No.25353 of 2016
and M.P.Nos.21659 & 21660 of 2016

R.Mohan

... Petitioner

Vs.

1.The Tahsildar,
Villupuram Taluk,
Villupuram District.

2.Kasturi

3.Aravalli

4.Amsavalli

5.V.G.P.Housing Pvt.Ltd.
Rep. by its Managing Director.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned Patta No.96 issued by the first respondent in favour of the respondents 2 to 4 and cancel the same and consequently direct the 1st respondent to restore the Patta No.225 in the name of the petitioner and his brothers as the joint patta being the legal heirs of the original pattadar Rose Kannu within a time to be fixed by this Court.



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For Petitioner : Mr.S.Thanka Sivan

For Respondent 1 : Mr.U.Bharanidharan,
Additional Government Pleader

For Respondents 2 & 4 : Mr.R.Gururaj

ORDER

The petitioner has filed this writ petition, seeking for issuance of writ of Certiorari Mandamus, calling for the records relating to the impugned Patta No.96 issued by the first respondent in favour of the respondents 2 to 4 and cancel the same and consequently direct the 1st respondent to restore the Patta No.225 in the name of the petitioner and his brothers as the joint patta being the legal heirs of the original pattadar Rose Kannu within a time to be fixed by this Court.

2. The case of the petitioner is that the land measuring to an extent of 52 Ares comprised in Survey No.133/11A, Salai Agaram Village, Villupuram Taluk, Villupuram District covered in Patta No.255 absolutely belongs to the petitioner and his brothers and the revenue records stood in the name of the petitioner's father viz., Rose Kannu. Suddenly, the petitioner's father died intestate on 10.04.1990, leaving behind the petitioner and his brothers and



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sisters as legal heirs and the petitioner's mother Rukmani predeceased his father. Thereafter, in the year 2012, respondents 2 to 4 started claiming and trespassed the subject property. This being the case, first respondent granted patta No.179 in favour of respondents 2 to 4 and for cancellation of the said patta, the petitioner made a representation dated 01.03.2016 before the first respondent, however no order was passed. Therefore, the petitioner made another representation dated 28.03.2016 seeking the aforesaid relief, but, till date no action was taken. Hence, the petitioner filed this writ petition with the aforesaid prayer.

3. Though very many grounds have been raised in this Writ Petition, learned counsel for the petitioner submitted that, it would suffice, if this Court issues direction to the first respondent to consider the petitioner's representation dated 01.03.2016 & 28.03.2016 under section 10 of Patta Pass Book Act and pass orders on merits within a particular time frame to be fixed by this Court.

4. Learned Additional Government Pleader appearing for the first respondent submitted that the property situated in Salai Agaram village of



Villupuram District having Re survey No.133/11A – 0.52.0 hectare, (1.29 Acre) Dry land is originally belonged to one Adhilakshmi ammal. Thereafter, one Desingu Kounder executed a pre marital settlement in favour of Uthirambal. Uthirambal accepted the settlement deed and married Desingu Kounder. As per the deed, the said Uthirambal was given a right to collect the usufructs from the suit properties and enjoy the properties till her life time without the power of alienation. Further, it is provided in the settlement deed that after the life time, the male issues and in the absence of male issue, the female issues are entitled to the properties absolutely. But the above said land had been conveyed to one Rajagopal Gounder vide sale deed No.2572/1972, dated 23.05.1972 by Adhilakshmi Ammal, Desingh Kounder and uthirambal and Desingh Kounder as Guardian of their minor children who are the respondents 2, 3 and 4 in this writ petition. Later it was alleged by the petitioner that the property was given to one RoseKannu who is the brother of the original purchaser Rajagopal Gounder by oral family partition.

5. Learned Additional Government Pleader further submitted that the minors after attaining majority filed Civil Suit in the District Munisif Court, Villupuram in O.S.No.748 of 1981 and got decree in their favour on

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12.01.1984. In first appeal, filed by the defendants in the court of subordinate Judge, Villupuram in A.S.No.93 of 1984 dated 05.03.1986, the appeal was allowed and the lower court decree and judgment were set aside. Against this order the plaintiff preferred 2nd appeal to the High Court in S.A.No.1922 of 1986 and the judgment delivered in favour of the plaintiffs on 13.10.1998 confirming the trial Court judgment. Based on the High Court judgment, the plaintiffs viz., Kasturi W/o. Balaraman Aravalli W/o. Kulantahivel, Hamsavalli W/o. Palani had applied for patta transfer in their name. Since it involves, legal disputes legal advice was sought by the Tahsildar, Villupuram from the Government Pleader of Principle District Munsif Court, Villupuram. Based on the legal advice and High Court order Patta transfer was ordered in favour of the above mentioned persons. Aggrieved by the patta transfer order and by suppressing all the above facts and judgments, the petitioner filed this writ petition before this Court.

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

7. The facts in the present case is not in dispute. The petitioner claims



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that the said property is owned by his father and obtained patta No.225 and subsequently, the patta was transferred in the name of respondents 2 to 4.

Therefore, he made an application for cancellation of patta vide representation dated 01.03.2016 and 28.03.2016 in terms of the section 10 of Patta Pass Book Act, before the first respondent, however, no order was passed. Hence this writ petition.

8. Considering the limited relief sought for by the writ petitioner, this Court directs the first respondent to consider the petitioner's application dated 01.03.2016 and 28.03.2016 in terms of the Section 10 of the Patta Pass Book Act and pass appropriate orders on merits and in accordance with law, after providing an opportunity of hearing to the petitioner as well as the private respondents, within a period of 12 weeks from the date of receipt of a copy of this order.

9. With the aforesaid direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes/No

Speaking Order : Yes/No

To:

The Tahsildar,
Villupuram Taluk,
Villupuram District.



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M.DHANDAPANI,J.

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