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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2022

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. No.11002 of 2022

and

W.M.P.Nos.10590 & 10591 of 2022

1. Krishnappa
2. Sampangiappa
3. Venkatesappa
4. Nagarajappa

... Petitioners

Vs.

1. The District Revenue Officer,  
Krishnagiri.
2. The Revenue Divisional Officer,  
Hosur.
3. The Tahsildar,  
Hosur.
4. Chandrappa

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 2<sup>nd</sup> respondent herein dated 15.03.2022 bearing PA.MU.No.562/2022/B3 and quash the same consequently directing the 3<sup>rd</sup> respondent to restore the names of the petitioners in the Patta No.168.

For Petitioners : Mr.K.Venkatasubban

For Respondents R1 to R3 : Mr.Yogesh Kannadasan,  
Special Government Pleader

O R D E R

This Writ Petition has been filed seeking for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 2<sup>nd</sup> respondent herein dated 15.03.2022 bearing PA.MU.No.562/2022/B3 and quash the same consequently directing the 3<sup>rd</sup> respondent to restore the names of the petitioners in the Patta No.168.



2. Since no adverse order is being passed as against the fourth respondent, notice to the fourth respondent is dispensed with.

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3. The case of the petitioners is that the properties in S.F.Nos.43/10, 39/4, 39/17 & 96/3 situated in Allor Village and in S.F.Nos.14/10C & 19/1B situated in Pooram Village were jointly owned by the grandfather of the petitioners and one Venkataramanaappa and Patta for the said lands was mutated in their names based on oral partition. After the demise of the petitioner's grandfather, the petitioners' father was managing the said properties. Thereafter, after the demise of the petitioner's father, the petitioners were maintaining the properties. While so, the fourth respondent, who is one of the legal heir of the said Venkataramanaappa, had cut the trees planted by the grandfather of the petitioners in S.F.No.43/10. Therefore, the petitioners issued legal notice for compensation for the illegal act of the fourth respondent.

4. Thereafter, the legal heirs of the said Venkataramanaappa filed a suit in O.S.No.322 of 1996 on the file of the Sub Court, Hosur, seeking for partition of the properties of the petitioner's grandfather and the same was dismissed on 27.07.2005. Aggrieved over the same, the plaintiffs therein preferred an appeal in A.S.No.6 of 2006 on the file of the Additional District Court, Krishnagiri and the same was decreed in their favour vide order dated 23.07.2013. Against the said order, the petitioners preferred second appeal in S.A.No.1228 of 2013 before this Court and the same was allowed in their favour vide order dated 29.01.2020.

5. Aggrieved by the same, the legal heirs of the said Venkataramanaappa preferred Special Leave to Appeal (c) No.9147 of 2021 before the Hon'ble Supreme Court and the same was dismissed on 09.08.2021, confirming the order dated 29.01.2020 of this Court. Further, the legal heirs of the said Venkataramanaappa approached the respondents 2 and 3 herein for mutation of Patta with respect to properties in S.F.Nos.43/10 & 39/4 in their names vide representation dated 03.09.2021. The second respondent, without providing an opportunity to the petitioners for producing the documents, had mutated the revenue records and issued Patta in favour of the fourth respondent and his brothers with respect to the said properties, pursuant to which, the impugned order dated 15.03.2022 was passed by the second respondent. Challenging the same, the present Writ Petition has been filed.

6. The learned counsel for the petitioners submitted that the disputed property is a joint family property and that without providing any opportunity to the petitioners to produce the documents pertaining to the orders of this Court and the Hon'ble Supreme Court, the second respondent had mutated the revenue records. It is the further submission of



the petitioners counsel that being an Appellate Authority, the second respondent has no power to grant Patta under Section 3 of the Tamil Nadu Patta Passbook Act, 1983 and the same is not sustainable. Hence, he prays for allowing the Writ Petition.

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7. The learned Special Government Pleader appearing for the respondents 1 to 3 submitted that the grievance of the petitioners against the order of the second respondent can be adjudicated before the Revisional Authority by filing Revision Application. However, the petitioners without approaching the Revisional Authority, have approached this Court under Article 226 of the Constitution of India, which is not sustainable.

8. Heard the submissions made by the learned counsel appearing for either side.

9. From a perusal of the materials available on record, it is seen that the fourth respondent made an application before the second respondent for mutation of Patta with respect to properties in S.F.No.43/10 & 39/4 in his name and other legal heirs, based on the judgment of the Additional District Court, Krishnagiri, which ended in his favour. Thereby, the second respondent issued Patta for the aforesaid disputed properties in the name of the fourth respondent and his brothers. However, the grievance of the petitioners is that being the Appellate Authority, Patta cannot be granted for the disputed properties as per the provisions of the Patta Passbook Act and the said order is not sustainable. However, it is to be pointed out that remedy of revision is available to the petitioners and without exhausting the same, the petitioners have come before this Court.

10. In view of the above, this Court is of the considered view that the petitioners, without approaching the Revisional Authority under Section 13 of the Patta Passbook Act have approached this Court under Article 226 of the Constitution of India, which is not sustainable. The grievance of the petitioners can be very well ventilated before the Revisional Authority under Section 13 of the Patta Passbook Act.

11. Therefore, this Court, without interfering with order impugned and also without expressing any opinion on merits, permits the petitioners to file Revisional Application before the first respondent under Section 13 of the Patta Passbook Act within a period of four weeks from the date of receipt of a copy of this order. If such application is filed, the first respondent is directed to pass orders in accordance with law on the said application within a period of twelve weeks thereafter, after affording an opportunity of hearing to the petitioners as well as the fourth respondent.



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12. With the above observations and directions, this Writ Petition is disposed of. No Costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Vacation Officer

//True Copy//

Sub Assistant Registrar

GLN

To

1. The District Revenue Officer,  
Krishnagiri.
2. The Revenue Divisional Officer,  
Hosur.
3. The Tahsildar,  
Hosur.

+1cc to M/s.Sarvabhauman Associates, Advocate SR. No. 29941  
+1cc to Government Pleader SR. No. 30885

W.P. No.11002 of 2022

RR (CO)  
PR (20/05/2022)