



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2022

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.35569 of 2016

and

W.M.P.Nos.30577 of 2016 and 6356 of 2017

1. Chinnammal
2. Vellaiammal
3. Selvarani

...Petitioners

Vs

- 1.The District Revenue Officer,
Perambalur District,
Perambalur.
- 2.The Revenue Divisional Officer,
Perambalur Division,
Perambalur.
- 3.Pushpam
- 4.Sakthivel
- 5.Kumaravel
- 6.Padmavathi

...Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for records relating to the proceedings of first respondent in Na.Ka.A3/1465/2016 dated 29.08.2016 and quash the same as unjust, arbitrary and also a result of non application of mind.

For Petitioners : Mr.R.Jayaprakash

For Respondents : Mr.A.M.Ayyadurai
Government Advocate (for R1 & R2)

: M/s.Kanmani
for Mr.C.T.Murugappan (for R3 to R6)



O R D E R

This Writ Petition is filed to issue a Writ of Certiorari, to call for records relating to the proceedings of first respondent in Na.Ka.A3/1465/2016 dated 29.08.2016 and quash the same.

2. The lands comprised in S.No.250/4, including S.Nos.250/1, 4/2, 246/1, 247/8, 264/9B, 250/8A, ad-measuring an extent of 0.51.5 ares, situated at Padalur (West) Village, Perambalur District, is owned by one Muthu S/o.Mottayan. He had settled in Sri Lanka long back by leaving the properties to the second and third petitioner's grand-father viz., Pethakutti. Their grant-father had been cultivating the said properties and after his demise, the second and third petitioners' father had been cultivating the same. After demise of their father, the petitioners are cultivating the same. While that being so, in the year 1989, one Thangavel and four others had attempted to grab the properties and they filed a suit in O.S.No.723 of 1989 on the file of the District Munsif Court, Perambalur as against the second and third petitioners' father. The said suit was dismissed on 21.04.1995. Aggrieved by the same, they filed an Appeal Suit before the Sub Court, Ariyalur in A.S.No.135 of 1995. The said Appeal was allowed and the second and third petitioners' father was set ex-parte and as such, he filed an application to set aside the ex-parte decree. Thereafter, it was re-numbered as A.S.No.10 of 2012 on the file of the Sub-Court, Perambalur. Subsequently, it was dismissed for default on 14.08.2012. The respondents 3 to 6 viz., claiming to be the legal heirs of the said Muthu, preferred a petition claiming issuance of patta before the second respondent. Considering the request made by them, the second respondent conducted enquiry and directed to issue patta in favour of them in respect of the subject properties. Aggrieved by the same, the first petitioner filed a revision before the first respondent and the same was allowed and the subject matter was remanded back for fresh disposal on the file of the the Sub Collector, Perambalur. Accordingly, the Sub Collector, Perambalur, by order dated 30.12.2015 concluded that, since the subject properties are originally owned by said Muthu S/o.Mottaiyan and rival claim being made over the said properties, the properties comprised in S.No.250/4, be restored favour of the said Muthu S/o.Mottaiyan in New Patta No.1323 and remaining properties comprised in Survey Nos.4/3, 246/1, 247/8, 250/8A and 264/9B be restored in New Survey No.1785 in the name of the said Muthu. Both parties were directed to approach the appropriate Civil Court for the relief, if they are aggrieved. Aggrieved by the same, the petitioners as well as the respondents 3 to 6 filed an appeal before the first respondent.

3. The petitioners further contended that the respondents 3 to 6 are total strangers to the said Muthu S/o.Mottaiyan,



whereas, the respondents 3 to 6 herein contended that their father/said Muthu, is also known as Muthusamy and after his return from Sri Lanka, he has worked in the Government Tea Estate in Kotagiri. After his demise during the year 1985, the petitioners have commenced the dispute during the year 1989 against Thangavel Vahayara.

4. A perusal of the records, reveals that the Executive Officer, Kothagiri Special Grade Town Panchayat, had issued the Death Certificate in respect of the said Muthu on 10.12.2008. On the strength of the said Death Certificate, the Tahsildar, Kothagiri had issued Legal Heirship Certificate to the respondents 3 to 6 as they are legal heirs of the said deceased Muthu. In fact, the first respondent also verified the Legal Heirship Certificate and Death Certificate produced by the respondents 3 to 6 herein and confirmed its genuineness with the Office of the Tahsildar, Kothagiri. Only after due enquiry, the authority, viz., the Tahsildar, Kotagiri had issued the Legal Heirship Certificate to the respondents 3 to 6 herein. If at all there is any dispute over the Legal Heirship certificate produced by them, the petitioners can very well challenge the same in the manner known to law.

5. That apart, the provision under Section 14 of the Tamil Nadu Patta Pass Book Act, 1983 provides that, if any person is aggrieved by any right of which he is in possession, by an entry made in the patta pass book under this Act, he may institute a suit against any person denying or interested to deny his title to such right for declaration of its rights. If the petitioners succeed in the suit, the entry in the patta pass book shall be amended in accordance with any such declaration.

6. Therefore, this Court finds no infirmity or illegality in the order passed by the first respondent and this Writ Petition is devoid of merits.

7. In the result, this Writ Petition is dismissed. However, the petitioners are at liberty to approach the Civil Court for appropriate relief in respect of the subject properties. If the petitioners succeed, they can very well approach the authorities concerned for issuance of patta. Consequently, the connected Miscellaneous Petition are closed. No costs.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar



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To

1.The District Revenue Officer,
Perambalur District,
Perambalur.

2.The Revenue Divisional Officer,
Perambalur Division,
Perambalur.

+1cc to Government Pleader SR. No.1985

+1cc to Mr.R.Jayaprakash, Advocate SR. No.992

+2ccs to Mr.C.T.Murugappan, Advocate SR. No.1815

W.P.No.35569 of 2016

PA (CO)

PR (07/02/2022)