



WEB COPY



W.P.No.7062 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.7062 of 2016

And

W.M.P.No.6271 of 2016

1.K.Kuppusami
2.K.Subramaniam
3.K.K.Muthusami

... Petitioners

Vs.

1.District Collector,
Erode.

2.Tahsildar,
Gobichettipalayam

3.K.P.Krishnasami
4.Jeganathan
5.Velusami

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents 1 & 2 to alter the Patta for the Lands measuring 0.26.0 Hectares comprised in Survey Nos.154/1, 153/2, 155/2, Kottupullampalayam Village, Gobichettipalayam Taluk, Erode District in the names of the Petitioner



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herein following Civil Court's Judgments passed in O.S.No.32 of 2003 on the file of the District Munsif Court, Gobichettipalayam dated 24.03.2010 and in A.S.No.41 of 2010 on the file of Sub Court, Gobichettipalayam dated 21.02.2013.

For Petitioner : M/s.M.V.Krishnan
For Respondents : Mr.G.Krishna Raja for R1 and R2
Additional Government Pleader
M/s.I.C.Vasudevan for R3 to R5

ORDER

The petitioners have filed this writ petition seeking issuance of Writ of Mandamus directing the respondents 1 and 2 to alter the patta for the Lands measuring 0.26.0 Hectares comprised in Survey Nos.154/1, 153/2, 155/2, Kottupullampalayam Village, Gobichettipalayam Taluk, Erode District, in the names of the petitioners following Civil Court's Judgment passed in O.S.No.32 of 2003 on the file of the District Munsif Court, Gobichettipalayam dated 24.03.2010 and in A.S.No.41 of 2010 on the file of Sub Court, Gobichettipalayam dated 21.02.2013.

2.The case of the petitioners is that the petitioners are brothers and they inherited the subject properties from their father. After their fathers death, the petitioners applied for issuance of patta to the



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second respondent, however, there was no response. Thereafter, they came to know that the third respondent who is no way connected with the lands, raised bogus plea that he was joint pattadhar of the lands along with their grandfather. Hence, the petitioners filed O.S.No.32 of 2003 on the file of the District Munsif Court, Gobichettipalayam, for mandatory injunction and the said suit was decreed in their favour on 24.03.2010. Challenging the same, the private respondents filed A.S.No.41 of 2010 on the file of Sub Court, Gobichettipalayam and the same was dismissed for default on 21.02.2013. Even thereafter, patta was not issued in favour of the petitioners. Hence, this writ petition.

3.The learned counsel appearing for the petitioner submitted that without going into the merits of the case, it would suffice, if this Court issues direction to the respondents 1 and 2 to implement the judgment and decree in O.S.No.32 of 2003 passed by the District Munsif Court, Gobichettipalayam, dated 24.03.2010, within a reasonable time frame.

4.Per contra, the learned Additional Government Pleader appearing for the respondents 1 and 2 submitted that though the appeal filed by the private respondents in A.S.No.41 of 2010 on the file



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of Sub Court, Gobichettipalayam was dismissed for default on 21.02.2013, thereafter, the appeal was restored on 25.06.2015 and the same is pending. However, this Court may grant liberty to the petitioners to file fresh application before the Revenue Officials, after disposal of the appeal in A.S.No.41 of 2010 on the file of Sub Court, Gobichettipalayam.

5.Heard the arguments advanced on either side and perused the materials available on record.

6.The facts in the present case is not in dispute. The petitioners are brothers and they claim that they inherited the subject properties from their father. After their fathers death, the petitioners applied for issuance of patta to the second respondent, however, there was no response. Thereafter, they came to know that the third respondent raised plea the he was joint pattadhar of the lands along with the petitioners grandfather. Hence, the petitioners filed O.S.No.32 of 2003 on the file of the District Munsif Court, Gobichettipalayam, for mandatory injunction and the said suit was decreed in their favour on 24.03.2010. Challenging the same, the private respondents filed A.S.No.41 of 2010 on the file of Sub Court, Gobichettipalayam.



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Though the said appeal was dismissed for default on 21.02.2013, subsequently, the appeal was restored on 25.06.2015 and the same is pending.

7.In view of the above, this Court grants liberty to the petitioners to file fresh application before the second respondent for transfer of revenue records as per the judgment and decree in O.S.No.32 of 2003 passed by the District Munsif Court, Gobichettipalayam, dated 24.03.2010, after disposal of the appeal in A.S.No.41 of 2010 on the file of Sub Court, Gobichettipalayam. If any such application is made, the second respondent is directed to pass appropriate orders, within a period of twelve weeks from the date of receipt of the application.

8.The writ petition is accordingly disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

05.07.2022

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Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No



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M.DHANDAPANI,J.
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To

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- 2.The Tahsildar,
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