



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.04.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.15039 of 2014

And

M.P.No.1 of 2014

1.Kathirvelu

2.Duraisamy

... Petitioners

Vs.

1. The District Revenue Officer,
Cuddalore.

2. The Revenue Divisional Officer,
Vriddachalam,
Cuddalore.

3. The Tahsildar,
Tittakudi,
Cuddalore.

4. Tamilselvan

5. Jegadambal

6. Karunanidhi

7. Arumugam

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records in order Naa.Kaa.V.3/15811/2013 dated 15.10.2013 issued by the first respondent confirming the order of the second respondent dated 12.07.2013 in Naa.Kaa.A4-3031-2013 and quash the same.

For Petitioners : Mr.T.Mohan

For Respondents : Mr.V.Veluchamy for R1 to R3
Additional Government Pleader
Mr.P.Nagaraju for R4 and R5



O R D E R

The petitioners have filed this writ petition seeking issuance of Writ of Certiorari calling for the records in order Naa.Kaa.V.3/15811/ 2013 dated 15.10.2013 issued by the first respondent confirming the order of the second respondent dated 12.07.2013 in Naa.Kaa.A4-3031-2013 and to quash the same.

2.The case of the petitioners is that the petitioners and respondents 6 and 7 are the legal heirs of one Saminathan. The respondents 4 and 5 are son and mother respectively. More than 70 years back, the lands in S.No.177/5 were assigned to the father of the petitioners and patta was also granted in his favour. To the North of S.No.177/5 is situated S.No.177/7. The fourth respondent while constructing a house in S.No.177/7, encroached into S.No.177/5 measuring 4 feet on the North, 6 feet on the South and 16 feet from South to North measuring 3 - ½ cents and he offered to purchase the lands from the petitioners and since they did not agree for the same, made representation to the official respondents as if the encroached portion was under the enjoyment of his great grandfather Narayanasami and thereafter by his father, however, patta was wrongfully granted to the petitioners' father.

3.The further case of the petitioners is that thereafter, the third respondent without conducting proper enquiry made recommendation stating that the assignment of the entire land in S.No.177/5 in favour of the petitioners father was done without noticing the fact that the fourth respondent's father was in occupation of a portion of the land in S.No.177/5 and based on the said recommendation, the impugned orders came to be issued. Hence this writ petition.

4.The learned counsel appearing for the petitioners submitted that more than 70 years back, the lands in S.No.177/5 were assigned to the father of the petitioners after field inspection and patta was also granted in his favour. However, the fourth respondent who is nowhere connected with the property constructed house in a portion of S.No.177/5 and the second respondent without conducting proper enquiry passed the impugned order dated 12.07.2013 and the same was confirmed by the first respondent vide impugned order dated 15.10.2013, which are not sustainable one.

5.The learned Additional Government Pleader appearing for the respondents 1 to 3 submitted that the fourth respondent made claim before the second respondent for assignment of the portion of the land in S.No.177/5 based on the possession and he established the fact that they are residing in the property for more than 30 years, when the revenue Officials conducted field



inspection. Thereafter, the impugned orders came to be issued. Hence, there is no error on the face of the record and the impugned orders warrant no interference.

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

7. The petitioners claim that more than 70 years back, the lands in S.No.177/5 were assigned to their father, however, the date of assignment has not been mentioned in the order of the original Authority as well as in the order of the revisional Authority and it was not produced before the first respondent. The petitioners are in possession of the entire lands in S.No.177/5 and the dispute is only with regard to 3 - ½ cents in S.No.177/5 for which the fourth respondent claim possession and enjoyment of the property for more than 30 years. However, the factual disputes are elaborately discussed by the respondents 1 and 2 in the impugned orders.

8. If at all the petitioners have any grievance, they have to approach the competent civil Court for establishment of title. Without approaching the competent civil Court and filing the writ petition under Article 226 of the Constitution of India is not sustainable one.

9. In view of the above, this Court is not inclined to interfere with the orders impugned in this writ petition. However, liberty is granted to the petitioners to approach the competent civil Court for establishment of title and if the petitioners succeed before the competent civil Court, they are at liberty to make appropriate application seeking transfer of patta before the revenue Officials.

10. The writ petition is disposed of with the above observations. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

True Copy//

Sub Assistant Registrar

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To

1. The District Revenue Officer,
Cuddalore.



2. The Revenue Divisional Officer,
Vriddachalam, Cuddalore.

3. The Tahsildar,
Tittakudi, Cuddalore.

+1cc to M/s.J.Antony Jesus, Advocate, S.R.No.24936

+1cc to Mr.P.Nagaraju, Advocate, S.R.No.24362

+1cc to the Government Pleader, S.R.No.24708

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GMR[co]

NSK 25/04/2022