



W.P.No.28071 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.09.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.28071 of 2014

and MP.No.1 of 2014 and WMP.No.31960 of 2017

- 1.C.Ranganathan
- 2.R.Santhoshkumar
- 3.R.Selvamani
- 4.R.SureshKumar
- 5.Sumathi

..Petitioners

Vs.

1.The District Revenue Officer,
Cuddalore District, Cuddalore.

2.The Revenue Divisional Officer,
Chidambaram Revenue Division,
Chidambaram, Cuddalore District.

3.The Tahsildar,
Kattumannarkoil Taluk,
Kattumannarkoil,
Cuddalore District.

4.Karuppusami

...Respondents

Prayer: Writ petition has been filed under Article 226 of the Constitution of India to issue a writ of Certiorari Calling for the records pertaining to the impugned order in Na.Ka. V3/18288/2014 dated 29.8.2014 passed by the 1st respondent and quashing the same as illegal arbitrary malafide and unwarranted in any law and on facts.



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For Petitioner : Mr.K.Balakrishnan

For Respondents : Mr.E.Vijay Anand
Additional Government Pleader

ORDER

This petition has been filed for issuance of writ of Certiorari to call for the records pertaining to the impugned order dated 29.8.2014 passed by the 1st respondent and quash the same.

2. The petitioners 2 to 5 are the children of the 1st petitioner, who is a native resident of Srineduncheri Village residing in the ancestral house alongwith other successors of his ancestors. One Mr.Chidambaram was also resided in one portion of the said ancestral house and the 1st petitioner along with his parents had been taking care of the said Chidambaram and he died on 02.01.2004. The said Chidambaram has executed a Will dated 22.12.2003, bequeathed all his properties to all the petitioners herein and the revenue authorities also mutated the revenue records in their favour. The 4th respondent who is the brother of the wife of the petitioner and a maternal uncle for all the other petitioners forging a



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Will, as executed by the said Chidambaram and claiming ownership of the properties of the said Chidambaram and also filed O.S.No.10/2005 for declaration of his title to all the properties of the said Chidambaram and the said Suit was dismissed for default vide decree dated 08.09.2009 and thereafter, the 4th respondent has also given a complaint alleging land grabbing by the petitioners and also made a petition before the 2nd respondent for change of patta to its original position in the name of the said Chidambaram. The 2nd respondent vide his order dated 18.07.2014, had rejected the petition for change of name. Challenging the same, the 4th respondent has filed a revision petition before the 1st respondent and on the said revision, the 1st respondent has passed the impugned order dated 29.08.2014, allowing the said revision petition filed by the 4th respondent and thereby directing the change of patta in the name of the said Chidambaram. Challenging the same, the present petition is filed.

3. The learned counsel appearing for the petitioner submitted that



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admittedly the said Chidambaram had executed registered Will in favour of the 1st petitioner and similarly the 4th respondent also claimed unregistered Will, as if the said Chidambaram had executed the Will in favour of him. Further the relationship of the petitioner and the 4th respondent is not in dispute, whereas already the 4th respondent has questioned the Will obtained by the petitioner in O.S.No.10/2005 and the said Suit was dismissed for default in the year 2009 and it has become final and therefore, subsequently questioning the patta in favour of the petitioner is not sustainable and also the 1st respondent without considering the dismissal order of the 2nd respondent dated 18.07.2014, against the 4th respondent, has mechanically restored the patta in favour of the original owner and passed the impugned order and hence prays for quashment of the same.

4. This Court has carefully considered the rival submissions and also perused the materials placed before it.



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5. Facts in the present case is not in dispute. The disputed property originally belongs to Chidambaram and further the relationship of the petitioner and the 4th respondent also not in dispute. It is the grievance of the petitioner that without any legal heirship, the 4th respondent has claimed ownership of the property through the unregistered Will alleged to have been executed by the Chidambaram and in that dispute, the 4th respondent has filed the Suit for declaration in O.S.No.10/2005 to declare the Will executed in favour of the petitioner as null and void, however the said Suit was dismissed for default and thereafter, at the instigation of the 4th respondent, patta was restored in the name of the original owner Chidambaram, and subsequently, the 4th respondent also obtained a Legal Heirship Certificate through a Civil Court decree in O.S.No.101/2014 vide decree dated 01.10.2015. Admittedly the said declaration of legal heirship obtained before the Civil Court was not challenged by the petitioner in the manner known to law. In view of the disputed question of fact as to the ownership of the property of the said Chidambaram, the revenue officials are incompetent to decide the title and further it is to be pointed out that the patta is not a title and it is only a possessory right and



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further if the petitioner claims rightful possession, it is open to him to file appropriate Suit before the competent Civil Court against the private respondent and without doing so, agitating the matter before this Court under Article 226 of the Constitution, is not sustainable and the title dispute cannot be decided by the revenue officials or by this Court, and it is to be decided only before the appropriate Civil Forum and hence, the relief sought for by the petitioner cannot be granted.

6. For the reasons aforesaid, this Writ Petition is dismissed. However liberty is granted to the petitioner and the 4th respondent to approach the competent Civil Forum and further the succeeding party is granted liberty to approach the competent authority for mutation of revenue records. No costs. Consequently connected miscellaneous petitions are closed.

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To
1.The District Revenue Officer,



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M.DHANDAPANI.,J.
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