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W.P.No.29648 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2022

CORAM :
THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Writ Petition No.29648 of 2022
and W.M.P.No.29035 of 2022

1.S.Govindammal
2.T.Natarajan

... Petitioners

Vs.

1.The District Collector,
Villupuram District,
Villupuram.

2.The Sub-Collector,
Tindivanam,
Villupuram District.

3.The Deputy Tahsildar,
Gingee Taluk,
Villupuram District.

4.K.Bhoobalan

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for records of the respondents, particularly the third respondent's impugned notice dated 08.08.2022 vide ref:Na.Ka.A1/3075/2022 and quash the same and directing the respondents 1 to 3 for forbearing further enquiry proceedings for change



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of Patta as demanded by the fourth respondent in respect of the properties, situated at Pallikulam Village, Gingee Taluk, Villupuram District, comprised in Ayan Punja S.No.17/6B1, to an extent of 0.65 ½ cents (0.26.5 ares), S.No.17/6B3A, to an extent of 0.16 ½ cents (0.06.5 ares) and Ayan Punja S.No.17/6B3B, to an extent of acres 2.17 cents (0.88.0 acres).

For Petitioners : Mr.R.Thanjan

For Respondents 1 to 3 : Mr.U.Bharanidharan,
Additional Government Pleader

ORDER

The petitioners have filed this writ petition seeking for issuance of Writ of Certiorarified Mandamus calling for records of the respondents, particularly the third respondent's impugned notice dated 08.08.2022 vide ref:Na.Ka.A1/3075/2022 and quash the same and directing the respondents 1 to 3 for forbearing further enquiry proceedings for change of Patta as demanded by the fourth respondent in respect of the properties, situated at Pallikulam Village, Gingee Taluk, Villupuram District, comprised in Ayan Punja S.No.17/6B1, to an extent of 0.65 ½ cents (0.26.5 ares), S.No.17/6B3A, to an extent of 0.16 ½ cents (0.06.5 ares) and Ayan Punja S.No.17/6B3B, to an extent of acres 2.17 cents (0.88.0 acres).

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2. By consent of both the parties, this writ petition is taken up for disposal at the stage of admission itself.

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

4. The case of the petitioners is that the properties comprised in Ayan Punja S.No.17/6B1, to an extent of 0.65 ½ cents (0.26.5 ares), S.No.17/6B3A, to an extent of 0.16 ½ cents (0.06.5 ares) and Ayan Punja S.No.17/6B3B, to an extent of acres 2.17 cents (0.88.0 ares) situated at Pallikulam Village, Gingee Taluk, Villupuram District was originally belongs to first petitioner's parents and they are in possession and enjoyment of the said property. This being the case, there was a dispute arisen between the petitioner's father and one Kulasekara Gounder, father of fourth respondent in respect of change in the patta under U.D.R. Therefore, the said Kulasekara Gounder filed O.S.No.88 of 1984 before the District Munsif Court, Gingee and the same was turned against him. Challenging the same, Kulasekara

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Gounder preferred first appeal in A.S.No.109 of 1991, which was also dismissed.

4.1. In view of the above, the Tahsildar, Gingee Taluk, Villupuram District confirmed the rights over the same to the first petitioner's parents by passing an order dated 29.10.1991. After the demise of first petitioner's parents, the right and title over the subject property derived to the first petitioner and the patta was turned in favour of her w.e.f. 10.12.2003. In the meantime, the fourth respondent sought for patta in respect of S.No.17/6B3B, against which, the first petitioner filed a writ petition in W.P.No.27232 of 2013 and the same was dismissed by this this Court vide order dated 04.11.2019. Subsequently, the first petitioner settled one of her properties comprised in S.No.17/6B3B to an extent of acre 1.88 cents, out of acres 2.17 cents (0.88.0 ares) in favour of her husband i.e., the second petitioner vide Doc.No.1727 of 2022. After such settlement, the fourth respondent and his son are trying to change the patta in their favour i.e., not only for the aforesaid S.No.17/6B3B, but also the other properties with the influence of the third respondent and they have also made a petition before the respondents 1 & 3 for change of patta. Thereafter, the third respondent has issued a proceedings vide Ref.Na.Ka.A.1/3075/2022 dated 08.08.2022 to the

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petitioners as well as the fourth respondent to appear for an enquiry on 10.08.2022. Challenging the said proceedings, the petitioner has filed this writ petition.

5. Learned counsel for the petitioners would submit that the property in dispute has already been settled by the District Munsif Court Gingee in favour of the petitioners, however, in order to harass the petitioners, the fourth respondent has made an application before the third respondent for mutating revenue records is not sustainable one. Accordingly, he prayed for appropriate orders.

6. Learned Additional Government Pleader appearing for the respondents 1 to 3 would submit that the fourth respondent has made an application before the third respondent/Deputy Tahsildar for mutation of revenue records and for the same, summon has been issued to the first petitioner. He further submitted that the petitioners have no right to question the summon and they are only entitled to question the decision taken by the third respondent/Deputy Tahsildar. Accordingly he prayed for dismissing the writ petition.



7. In response, learned counsel for the petitioners would submit that this Court may permit the petitioners to present all the relevant document before the third respondent/Deputy Tahsildar and may direct the third respondent to hear the petitioners and pass appropriate orders.

8. Heard the learned counsel on either side and perused the materials available on record.

9. The facts in the present case is not in dispute. Admittedly, the fourth respondent made a complaint, the impugned notice dated 08.08.2022 in Na.Ka.A.1/3075/2022 was issued by the third respondent/Deputy Tahsildar, wherein, the petitioner was called for an enquiry on 10.08.2022 and this Court, in catena of decisions has categorically held that a mere summon cannot be challenged at the threshold. Further, if the petitioners are the title holder of the subject property, they can very well canvass their grievances before the third respondent. Instead of approaching the third respondent, filing of the present Writ Petition is not sustainable. Hence, the prayer sought for by the petitioner cannot be granted.



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10. Accordingly, this writ petition is dismissed with liberty to the petitioners to file an appropriate objection before the third respondent/Deputy Tahsildar within a period of two weeks from the date of receipt of a copy of this order. On such receipt, the third respondent is directed to conduct an enquiry in the matter after affording an opportunity of hearing to both the petitioners and the fourth respondent and pass appropriate orders on merits and in accordance with law within a period of four weeks thereafter. No costs. Consequently, connected miscellaneous petition is closed.

09.11.2022

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Index : Yes/No

Speaking Order : Yes/No

To:

1.The District Collector,
Villupuram District,
Villupuram.

2.The Sub-Collector,
Tindivanam,
Villupuram District.

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3.The Deputy Tahsildar,
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M.DHANDAPANI,J.

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