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W.P.No.25787 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.08.2022

CORAM:

THE HON'BLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.25787 of 2018
and
W.M.P.No.29995 of 2018

1. R.Kannagi
2. R.Ramya
3. R.Rani
4. R.Rajalakshmi ...Petitioners

Vs.

1. The District Collector,
Perambalur District.
2. The Revenue Divisional Officer,
Perambalur Revenue Division,
Perambalur District.
3. The Tahsildar
Kunnam Taluk,
Perambalur District.
4. P.Tamilvanan ...Respondents

Writ Petition filed under Article 226 of the Constitution of India,
to issue a Writ of Certiorari, to call for the records pertaining to the



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impugned order passed by the 2nd respondent dated 28.07.2011 vide her proceedings in Na.Ka.A2/6179/10 and subsequent Lok Adalat Award dated 06.12.2014 entered into between respondents 1 to 4 herein in O.S.No.207/2014 on the file of District Munsif Court, Perambalur, bearing L.A.No.1322 of 2014 and set aside the same as illegal, arbitrary, without jurisdiction, abuse of process and for consequential orders.

For Petitioners : Mr.R.Veeramani

For respondents : Mr.R.P.Murugan Raja, GA, for R1 to R3
: Mr.Balaji, for R4

ORDER

The petitioners have filed this Writ petition seeking issuance of a Writ of Certiorari to call for the records of the 2nd respondent in respect of the proceedings bearing Na.Ka.A2/6179/10 dated 28.07.2011 and the subsequent Lok Adalat Award dated 06.12.2014 entered into between respondents 1 to 4 herein in O.S.No.207/2014 on the file of District Munsif Court, Perambalur, bearing L.A.No.1322 of 2014 and set aside the same.

2. The case of the petitioners is that the Natham house site comprised in Old S.No.150/2-Part, New S.No.359/12, measuring an extent of 0.1082 sq. mtr., was originally owned by one Late Rajendran, who is none other than the husband of the 1st petitioner and father of the other petitioners and



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he was also issued with patta bearing Natham Patta No.391 in his favour.

After the demise of said Rajendran, the petitioners herein being the only legal heirs of the said Rajendran are in absolute possession and enjoyment of the said property and have also obtained patta in Patta No.391 in their favour. While so, one Pugazhendhi, father of the 4th respondent, who is in no way connected with the subject property, made multiple attempts to encroach upon the said property. Immediately, the 1st petitioner made a petition dated 10.01.2010 before the 1st respondent, seeking not to issue patta in favour of the said Pugazhendhi in respect of the disputed property and subsequently, she has also made a petition for surveying the subject property along with the necessary charges and accordingly, based on the Revenue Inspector's report, 3rd respondent issued a certificate bearing Certificate No.55/2010 in favour of the 1st petitioner. While such being the case, on consideration of the petition dated 18.08.2010 made by the 4th respondent's father, the 2nd respondent, without any authority and without issuing any notice to the petitioners, has passed the present impugned order dated 28.07.2011 in proceedings bearing Na.Ka.A2/6179/10 and included the name of the 4th respondent's father as one of the joint pattadar in Patta



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No.391. Further, based on the above said order of the 2nd respondent, the 4th respondent's father, fraudulently included his name in the above said patta and subsequently, the 4th respondent instituted a suit in O.S.No.207/2014 on the file of the District Munsif Court, Perambalur against the respondents 1 to 3 herein and merely based on the observations made in the present impugned order, the 4th respondents by colluding with his Advocate, who appeared for the defendants therein, made the case to be referred to Lok Adalat, wherein a fraudulent memo of settlement reached between the respondents 1 to 4 herein and as a result, a collusive and fraudulent Lok Adalat Award was passed on 06.12.2014 and the petitioners herein came to know about the above said illegal proceedings initiated by the 4th respondent and his father, only through the reply dated 10.08.2017 given by the 2nd respondent for the petition made by the 1st petitioner. Hence, challenging the above said order of the 2nd respondent dated 28.07.2011 and the subsequent Lok Adalat Award dated 06.12.2014 made in O.S.No.207/2014, the present Writ petition is filed.

3. Heard learned counsel on either side and perused the materials



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available on record.

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4. Though notice was served on the 4th respondent, no one appeared on behalf of the 4th respondent. However, considering the period of pendency of this Writ petition, this Court is inclined to pass the following order, based on the materials placed on record.

5. Though very many grounds have been raised by the learned counsel on either side at the time of arguments, the major grievance of the petitioners is that though the patta in Patta No.391 in respect of the subject property stands in the name of the petitioners, it is alleged that the 2nd respondent has mechanically passed the present impugned order and included the name of the 4th respondent's father as one of the joint pattadar in the above said Patta, without issuing any notice to the petitioners and the 2nd respondent has no authority to entertain the representation made by the 4th respondent's father for rectification of error in patta, as he is not the competent authority to carryout necessary rectifications or modifications in the patta issued by the Tahsildar.

6. Admittedly, the patta in Patta No.391 in respect of the subject



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property stands in the name of the petitioners, and subsequently, the name of the 4th respondent's father was included in the said patta, based on the representation dated 18.08.2010 made by the said Pugazhendhi, father of the 4th respondent. Though the petitioners claim that the 2nd respondent has no authority to carryout necessary changes in the UDR records, however, it is pertinent to note that, the District Revenue Officer is vested with the authority to rectify discrepancies in the UDR records in terms of G.O.Ms.No.385, Revenue Department, dated 17.08.2004.

7. However, the issue in the case on hand is that, no notice was served on the petitioners, before passing the present impugned order. Further, the impugned order also did not reveal whether notice was served on the petitioners or not. While such being the case, as rightly pointed out by the learned counsel for the petitioners, without issuing notice to the petitioners and without affording an opportunity of personal hearing to the petitioners, the 2nd respondent has mechanically passed the present order under challenge and included the name of the 4th respondent's father, which is not sustainable and is a clear violation of principles of natural justice. Hence, on the sole ground, the present impugned order passed by the 2nd respondent is



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liable to be set aside.

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8. Insofar as the consequential prayer relating to subsequent Lok Adalat Award dated 06.12.2014 made in O.S.No.207/2014 is concerned, in view of the relief granted supra, the subsequent Lok Adalat Award which was passed based on the aforesaid order cannot be allowed to survive and, accordingly, the same deserves to be set aside.

9. For the reasons aforesaid, this Writ petition is allowed with the aforesaid observations and directions. However, liberty is granted to the 4th respondent to file appropriate representation before the Judrisdictional District Revenue Officer, in terms of G.O.Ms.No.385 dated 17.08.2004. No costs. Consequently, connected Miscellaneous petition is closed.

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Index : Yes/No

Speaking order : Yes/No

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