

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.29000 OF 2018

AND

W.M.P.NOS.33907 AND 33911 OF 2018

1. K.Nagarajan

2. K.Lakshmi

3. K.Gomathi

... Petitioners

.Vs.

1. The District Revenue Officer,
Kanchipuram,
Collector Office Complex,
Kanchipuram District - 631 501.

2. The Sub Collector,
Chengalpattu,
Kancheepuram District.

3. The Tahsildar,
Thirukazhikundram Taluk,
Kancheepuram District.

4. E.Subramani

5. Inbanathan

6. Pappathi

7. Kanniammal

8. Selvi

... Respondents

PRAYER:-

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the order of the first respondent passed in

his proceedings Ne.Mu.No.26102/2017/No.4 dated 18.09.2018 served on the petitioners by RPAD on 05.10.2018 and quash the same as the petitioners are given joint Patta No.472 on 07.10.2011 by the third respondent for the very same subject property.

For Petitioners : Mr.P.Ebenezer Paul

For Respondents : Mr.G.Krishna Raja
Additional Government Pleader
For R1 to R3

Mr.J.Athiamaan
For R4 to R8

O R D E R

The petitioners have filed this writ petition seeking issuance of Writ of Certiorarified Mandamus calling for the records relating to the order of the first respondent passed in his proceedings Ne.Mu.No.26102/2017/No.4 dated 18.09.2018 served on the petitioners by RPAD on 05.10.2018 and quash the same as the petitioners are given joint Patta No.472 on 07.10.2011 by the third respondent for the very same subject property.

2. The case of the petitioners is that the petitioners grandfather namely, Late.Ellappan owned several properties including the subject property. The petitioners father was born to the first wife of their grandfather and respondents 4 to 8 were born to the second wife of their grandfather. After the demise of the petitioners grandfather, respondents 4 to 8 and petitioners father orally partitioned the properties as per which, respondents 4 to 8 took possession of the rest of the property and gave the subject property to the petitioners father and the petitioners father also obtained patta in his favour. After the demise of the petitioners father, patta in respect of the subject property was transferred in the name of the petitioners. Whiles, respondents 4 and 5 applied for patta in respect of the subject property and thereafter the impugned order came to be passed. Hence, this writ petition.

3. The learned counsel appearing for the petitioner submitted that patta in respect of the subject property was issued in favour of the petitioners under the Tamil Nadu Patta Pass Book Act and if any modification or alteration is to be done, it has to be done by the Tahsildar under Section 10 of the said Act and not by the District Revenue Officer and further submitted that the District Revenue Officer has no power to

usurp the power of the Tahsildar and hence, the impugned order is non est in law.

4. The learned counsel appearing for the private respondents submitted that the subject property is the ancestral property and it has to be divided among all the legal heirs of the petitioners grandfather namely, Late.Ellappan and hence the impugned order warrants no interference.

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. Admittedly, patta in respect of the subject property was issued in favour of the petitioners under the Tamil Nadu Patta Pass Book Act. The issue that arise for consideration is whether patta issued can be cancelled by the revisional Authority bye-passing the mechanism available under the Tamil Nadu Patta Pass Book Act.

7. Admittedly patta was issued in terms of Section 3 of the Tamil Nadu Patta Pass Book Act and as per Section 10 of the said Act, any modification or alteration is permissible only before the Tahsildar, however, contrary to the same, the District Revenue Officer had directly dealt with the matter and passed the impugned order, which is not sustainable one.

8. In view of the above, the order of the first respondent dated 18.09.2018 served on the petitioners by RPAD on 05.10.2018 is set aside. The first respondent is directed to forward the entire papers to the third respondent, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the same, the third respondent is directed to hear the petitioners as well as the private respondents and pass appropriate orders, within a period of twelve weeks thereafter.

9. The writ petition is allowed on the above terms. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The District Revenue Officer,
Kanchipuram,
Collector Office Complex,
Kanchipuram District - 631 501.
2. The Sub Collector,
Chengalpattu,
Kancheepuram District.
3. The Tahsildar,
Thirukazhikundram Taluk,
Kancheepuram District.

+1cc to Mr.V.Krishnamurthy, Advocate, S.R.No.39262

+1cc to Mr.J.Athiamaan, Advocate, S.R.No.39752

+1cc to the Government Pleader, S.R.No.39846

W.P.NO.29000 OF 2018 AND
W.M.P.NOS.33907 AND 33911 OF 2018

KK(CO)
PBS/26/07/2022