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W.A.No.55 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2023

CORAM :

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

AND

THE HON'BLE MR.JUSTICE P.B.BALAJI

W.A.No.55 of 2020

1. K.Akbar Basha
2. A.J.Naqzar Basha
3. A.Mohamed Rafi .. Appellants

v.

1. The Commissiонер of Police
Shevapet
Salem Corporation
Salem 636 002

2. The Assistant Commissioner of Police
City Crime Branch
Salem Town Police Station Complex
Salem 636 001

3. The District Collector
Salem District
Salem Town 636 001



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4. The Revenue Divisional Officer
Collectorate Office Campus
Salem Town 636 001

5. N.Mustak Sheriff

6. N.Mahaboob Sheriff

7. N.Sardar Sheriff

8. N.Ismail Sheriff

9. N.Chand Begum

10.N.Mallika Begum

11.A.Safiullah Khan

.. Respondents

Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 20.11.2019 made in W.P.No.25440 of 2016.

For Appellants :: Mr.C.Samivel

For Respondents :: Mrs.Geethathamarai Selvan
Special Government Pleader
for R1 to R4
Mr.K.Raja for
Mr.M.Kaviveerappan and
Mr.T.Dharani for
R5, R6, R7, R9 & R10
Mr.Sarath Kumar for R8
Not ready in notice reg R11

JUDGMENT

(Judgment of the Court was made by D.KRISHNAKUMAR,J.)

The instant intra-Court appeal has been filed by the appellants as against the order dated 20.11.2019 passed in Writ Petition No.25440 of



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2. The brief facts of the case are as follows. An extent of 0.42 cents in T.S.No.68 and another extent of 0.6 cents in T.S.No.69 at Maravaneri Village, Salem District, originally belonged to one Mr.Nawab Sheriff, the father of the private respondents 5 to 10. As Mr.Nawab Sheriff was in continuous physical possession, he filed an application under Section 19-A of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948 for grant of patta in respect of the said property. After examining the documents and the evidence adduced by the aforesaid Nawab Sheriff, the Director of Settlements has assigned the land in favour of the father of the respondents 5 to 10 under Section 19-A of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948, by the proceedings dated 17.10.1966. Challenging the said order, the Madras State Wakf Board filed a revision before the Board of Revenue (Settlement of Estates) and the same was rejected and subsequently, a suit came to be filed before the civil Court claiming that the said property belonged to the Wakf. The aforesaid suit was also decided in favour of the private respondents 5 to 10.



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Thereafter, patta also has been granted in their favour and they have been in continuous possession of the said property.

3. While so, the appellants have made an application to the Revenue Divisional Officer, Salem to cancel the patta granted in favour of the private respondents 5 to 10. Based on the said petition, the notice dated 16.10.2015 was served to the private respondents 5 to 10 to appear for an enquiry. Challenging the said notice, the private respondents 5 to 10 have filed the instant Writ Petition No.25440 of 2016 before the writ Court. In the said writ petition, a counter statement has also been filed by the appellants. The writ Court, after referring to the proceedings issued by the Director of Settlements under Section 19-A of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948 and the proceedings of the Board of Revenue as well as the decree of the civil Court, after hearing the parties, quashed the notice impugned in the writ petition, on the ground that the issue has become final. Aggrieved by the said order, this intra-Court appeal has been preferred by the appellants before this Court.



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4. Learned counsel appearing for the appellants submitted that the Revenue Divisional Officer, Salem has issued the notice asking the private respondents 5 to 10 to appear for an enquiry and therefore, no prejudice is caused to them to produce the documents in support thereof to prove their possession. He also submitted that the Tahsildar, Salem has issued only an extract of Taluk Survey Land Register. Therefore, according to the appellants, they are questioning the genuineness of the said proceedings issued in favour of the respondents 5 to 10 and hence, asking the respondents 5 to 10 to appear for an enquiry cannot be found fault with.

5. Having heard the learned counsels appearing for the parties and on perusal of the materials placed on record, this Court is of the view that the private respondents 5 to 10 have been put in possession of the land in question through their father Mr.Nawab Sheriff, on the basis of the proceedings issued by the Director of Settlements dated 17.10.1966 under Section 19-A of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948 and the said proceedings have also been confirmed by the Board of Revenue vide the proceedings dated 22.02.1968 in the revision



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filed by the Madras State Wakf Board. Subsequently, the matter was agitated before the civil Court and the issue has become final, on the basis of the aforesaid proceedings in favour of the private respondents 5 to 10. Therefore, the appellants, without having any locus standi to seek for cancellation of patta, have filed the application before the Revenue Divisional Officer, Salem. Further, we find that the appellants have not raised any grounds in this appeal to satisfy this Court that they have a right to question the assignment granted in favour of the respondents 5 to 10 nor have they placed any piece of material before us to prove their possession or title over the land in question. Besides, the appellants have failed to challenge the order of assignment granted originally in favour of the father of the respondents 5 to 10 under Section 19-A of the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948 before the competent authority. In the present proceedings before the Revenue Divisional Officer, they have only challenged the patta granted in favour of the respondents 5 to 10 and not the original assignment. Therefore, considering the matter in any angle, we are not satisfied with the grounds raised in the appeal as well as the contentions made by the counsel for the appellants.



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Hence, finding no merits whatsoever, the writ appeal stands dismissed.

However, we make it clear that if any doubt as to the genuineness of the assignment/patta, is sought to be raised, it is for the authorities concerned to consider the same in accordance with law. Consequently, interim order stands vacated and the C.M.P.No.699 of 2020 is also dismissed. No costs.

(D.K.K.,J.) (P.B.B,J.)
11.07.2023

Index : yes/no
Neutral citation : yes/no

SS

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