



W.P.(MD) No.10173 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.06.2023

CORAM:

THE HONOURABLE MS. JUSTICE P.T. ASHA

W.P.(MD) No. 10173 of 2021

and

W.MP.(MD).No.7884 and 9559 of 2021

1.P.Ramasamy @ Raman

2.P.Veluchamy

3.L.Kalaivani @ Kalarani

4.L.Ruthra Kishore

5.L.Shivani

6.P.Saroja

7.P.Sudha

8,Malliga

... Petitioners

Vs.

1.The District Collector,
Madurai District,



W.P.(MD) No.10173 of 2021

WEB COPY

Madurai

2.The District Revenue Officer,
Madurai.

3.The Revenue Divisional Officer
Madurai.

4.The Special District Revenue Officer,
LA-NH-785,
Madurai District.

5.The Tahsildar,
Madurai South,
Collectorate Building,
Madurai-625 020.

6.A.Jayachandran

... Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India,
praying for issuance of Writ of Certiorari, to call for the records on
the file of the fourth respondent in Ni.Mu.No.G2/7882/2015, dated
11.05.2021 and to quash the same.

For Petitioner : Mr.S.Mahesh Babu

For Respondents : Mr.T.Amjadkhan
Government Advocate for R1 to R5
Mr.C.Mahadevan for R6



W.P.(MD) No.10173 of 2021

WEB COPY

ORDER

This Writ petition is filed for issuance of writ of Certiorari to call for the records on the file of the fourth respondent in Ni.Mu.No.G2/7882/2015, dated 11.05.2021 and to quash the same.

2. It is the case of the petitioner that the properties were purchased by one Poovalingam, under sale deeds dated 17.10.1928, 21.01.1929 and 20.09.1933. There was a partition amongst the family members on 24.05.1948. Under the partition, Poovalingam, who is the grandfather of the petitioner, father of the petitioner and Murugan were entitled to 4.62 acres of punja lands in Survey No. 75/1 (Now 75/28), Viraganoor Village, Madurai South Taluk. They had got the patta in respect of this extent. Thereafter, Murugan had sold his share measuring an extent of 1.08 acres to third party and after the sale, the petitioners and their father were entitled to an extent of 3.54 acres in the said survey numbers. It is the further case



W.P.(MD) No.10173 of 2021

of the petitioners that the patta was issued for the total extent of Survey No.75/1 measuring 9.05 acres in the name of 26 persons which included the petitioner's father, namely, S.P.Palanisamy, first petitioner's name and the name of his brother i.e., second respondent and one P.Lakshmanasamy @ Lakshmanan.

3. The petitioners would further submit that they were entitled to an extent 3.54 acres. The sixth respondent herein attempted to interfere with the petitioners' possession of the property, which constrained the petitioner's father to institute the suit in O.S.No.506 of 2013, on the file of the Principle Sub Court, Madurai, against the sixth respondent and others for declaration of title with reference to an extent of 3.54 acres in Survey No.75/1 (presently 75/28). The said suit is pending and the sixth respondent had also entered appearance in the said suit. The petitioners would further submit that in the list of persons, who were joint pattadhars, the name of the sixth respondent's father also found place. The sixth respondent's



W.P.(MD) No.10173 of 2021

father was entitled to 23 cents, which was purchased by his first wife, namely, Ammachiammal and on her death, his name was included in the joint patta only for an extent of 23 cents. It appears that 23 cents was sold by the sixth respondent along with his brothers and mother on 07.04.1982 to one Ramamoorthy. Therefore, with this sale, the sixth respondent did not have any right to the lands in Survey No.75/1. Without ascertaining the true facts, it appears that the Head Quarters Deputy Tahsildar, by order, dated 12.12.2012 had included the names of Velayutham Pillai and Sangiliammal. The sixth respondent had challenged this inclusion and requested individual patta to be granted in his name.

4. The petitioners would further submit that the petitioners had appeared and contested his claim before the third respondent. By an order, dated 04.02.2015, the inclusion of the two names were deleted and directions were issued to the parties to obtain orders before the civil Court and thereafter, seek issuance of patta. The sixth



W.P.(MD) No.10173 of 2021

WEB COPY

respondent had claimed right by adverse possession and he did not possess any document of title with reference to the property. The sixth respondent, aggrieved by the order of the third respondent, had filed a revision before the second respondent. This revision was pending for over four years and pending enquiry, the petitioner's father had passed away and their sisters were added as parties. The revision finally came before the second respondent on 19.01.2021. Since the second respondent was earlier holding the Office of the third respondent and as he had passed order under revision, the matter was referred to the Commissioner of Land Administration, Chennai, who instructed the first respondent to hear the revision appeal or to appoint any other equivalent Officer. The first respondent without hearing the parties had reserved orders on 01.05.2021 and the fourth respondent had passed the order as it was delegated to him by the first respondent. Ultimately, the first respondent had passed impugned order, which is the subject matter of challenge.



W.P.(MD) No.10173 of 2021

WEB COPY

5. The petitioners would submit that the impugned order was passed without hearing the parties. The fourth respondent failed to appreciate that the issue in question is the subject matter of the suit pending before the civil Court in O.S.No.506 of 2013. The fourth respondent ought to have directed the parties, namely, the sixth respondent to approach the civil Court. In the impugned order, the fourth respondent, relying upon the fasali receipts produced by the sixth respondent, had come to the conclusion that they have proved their adverse possession to the property.

6. Heard the learned counsel appearing on either side and perused the records.

7. Admittedly, the suit in O.S.No.506 of 2013 filed by the petitioners for a comprehensive relief of declaration and injunction, is pending disposal. The sixth respondent is also a party to the suit



W.P.(MD) No.10173 of 2021

as 8th defendant. The first respondent has, in the impugned order, gone into the question of title, which he is prohibited from looking into particularly, when the Act mandates that the authorities should refer the parties to the civil Court, in case, there are serious issues of title as set out in Rule 4(4) of Tamil Nadu Patta Pass Book Act. Therefore, this Writ Petition is allowed and the impugned order dated 11.05.2021 passed by the fourth respondent is set aside and the parties are directed to work out their remedy before the civil Court in the suit in O.S.No.506 of 2013 pending on the file of the Principal Sub Court, Madurai. The learned Principal Sub Judge, Madurai, shall endeavour to dispose of the suit as expeditiously as possible. No costs. consequently, connected miscellaneous petitions are closed.

21.06.2023

NCC : Yes/No
Index: Yes/No
Internet : Yes
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W.P.(MD) No.10173 of 2021

WEB COPY

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