



W.P.(MD)No.12093 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.12.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.12093 of 2020

and

W.M.P.(MD).Nos.10395, 10397 and 10399 of 2020

1.Pandiammal Devi

2.Pandi Selvi

3.Vijayalakshmi

4.Vasuki Vanithamani

5.Usharani

6.Porkodi

... Petitioners

Vs.

1.The District Collector,
Theni District.

2.The Tahsildar,
Taluk Office,
Periyakulam Taluk,
Theni District.

3.The District Registrar,
Periyakulam,
Theni District.



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4.The Joint Sub Registrar No.I,
Joint Registrar Office No.I,
Periyakulam,
Theni District.

5.The Executive Officer,
Thamaraikulam Town Panchayat,
Periyakulam Taluk,
Theni District.

6.Ammachiammal

7.Periya Karuppu

8.Chinna Karuppu

9.Khalidas

10.Karuppu

11.S.Murugan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned settlement deed dated 02.05.2017 registered as Doc.No.669 of 2017 on the file of the Joint Sub Registrar No.I, Periyakulam, Theni District, fourth respondent herein and the consequent impugned sale deed dated 14.07.2020 registered as Doc.No.1193/2020 on the file of the Joint Sub Registrar No.I, Periyakulam, Theni District, fourth respondent herein quash the same and consequently direct the second respondent to transfer the Natham Patta No.1553 standing in the name of petitioner's grand mother Perumayee Ammal, wife of late Kuzhanthaivelu into the joint names of petitioners and assess property to tax by the fifth respondent herein.



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For Petitioners : Mr.K.Appadurai
For R-1 to R-4 : Mr.B.Saravanan
Additional Government Pleader
For R-5 : No Appearance
For R-7, R-8
and R-10 : Mr.S.Jeyakumar

ORDER

This Writ Petition has been filed to cancel the settlement deed dated 02.05.2017 registered as Document No.669 of 2017 on the file of the fourth respondent and the sale deed dated 14.07.2020, registered as Document No.1193 of 2020 on the file of the fourth respondent and for a consequential direction to the second respondent to restore the patta in the name of petitioner's grand mother viz., Perumayee Ammal wife of Kuzhanthaivelu.

2. Heard the learned counsel appearing on behalf of the petitioners, the learned Additional Government Pleader appearing on behalf of the respondents 1 to 4 and the learned counsel appearing on behalf of the respondents 7, 8 and 10.



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3. The case of the petitioners is that the Thorayya patta was granted in favour of Perumayee Ammal, who is the grandmother of the petitioners. She was in possession and enjoyment of the same and on her demise it was inherited by the petitioners. In the year 1997, the sixth respondent taking advantage of the similarity in the names, created documents and tried to interfere with the possession and enjoyment of the property. The sixth respondent filed a suit in O.S.No.156 of 1997 on the file of District Munsif Court, Periyakulam seeking for permanent injunction. This suit was dismissed by judgment and decree dated 08.10.1998 and it was also confirmed in the appeal in A.S.No.12 of 1999 by judgment and decree dated 09.01.2004. In spite of the same, the sixth respondent proceeded to execute a settlement deed dated 02.05.2017 in favour of the respondents 7 to 10 and they in turn executed a sale deed in favour of the eleventh respondent dated 14.07.2020. According to the petitioners, these two documents are fraudulent documents which were executed in spite of the fact that the sixth respondent lost before the civil Court and she was held not to possess any right over the property. That apart, they also managed to get the patta in their favour. It is under these circumstances, the present Writ Petition was filed before this Court.



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4. In the considered view of this Court, taking into account the facts of this case, it will be more appropriate to direct the District Registrar viz., the third respondent to deal with the issue. It will be too far fetched for this Court to exercise its jurisdiction under Article 226 of Constitution of India and cancel the documents straightaway. In view of the same, the matter is directed to be heard by the third respondent who will hear the petitioners as well as the respondents 6 to 11 and pass final orders. The third respondent shall await the final orders to be passed by this Court with respect to the power under Section 77 (A) of the Registration Act, since the power of the third respondent has now been kept in abeyance by virtue of Circular No.3 dated 29.09.2023. As and when the power of the third respondent is restored, a notice shall be issued to the petitioners and the respondents 6 to 11 and their plea shall be heard and orders shall be passed in three months.

5. This Writ Petition is disposed of in the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

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NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr



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To
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- 2.The Tahsildar,
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Periyakulam Taluk,
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- 4.The Joint Sub Registrar No.I,
Joint Registrar Office No.I,
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N.ANAND VENKATESH, J.

Nsr

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