



W.P.No.12627 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2024

CORAM

THE HON'BLE **MS.JUSTICE P.T.ASHA**

W.P.No.12627 of 2019

and

W.M.P.No.12861 of 2019

1. J.Babulal
2. J.Ashok Kumar
3. J.Sovanlal
4. M.Prakashchand

... Petitioners

Vs.

1. The Government of Tamil Nadu,
Represented by its Secretary,
Ministry of Revenue,
St.George Fort,
Chennai – 600 009.
2. The District Collector,
Collectorate Office,
Vellore District,
Vellore.
3. The District Revenue Officer,
Vellore District,
Vellore.
4. The Revenue Divisional Officer,
Vellore District,
Vellore.
5. The Tahsildar,
Vellore District,
Vellore.
6. R.Harish Kumar



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7. C.Vijayakumar
8. V.Vijayalakshmi
9. V.Deepaasree
10. A.Thamizhselvan
11. S.Yoganandham

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the orders passed by the 3rd Respondent in Ni.Mu.D3/9471/2018 dated 06.12.2018 and 4th Respondent Pa.Mu.Fi.1/737/2018 dated 07.03.2018 and to quash the same and directing the Respondents 3 and 4 to issue Patta in the name of the Petitioner in respect of the land to an extent of 4464 Sq.Ft together with buildings bearing Door Nos.6,4,8,9,10 and 11 (Old Door Nos.9, 9/1, 9/2, 9/3, 9/4, 9/5) comprised in Town Survey Nos.54/1, 55/1, 57/3, 58, 59, 60, 61, 62, 63/2 and 63/3, Ward No.3, Block No.10, Municipal Ward No.35 of Filter Bed Road (previously Thukkaram Bajanai Koil Street) situate at Vellore Town, Vellore Taluk and District.

For Petitioner	: Mr.M.Prabhakar
For R1 to R5	: Mr.M.R.Gokul Krishnan Additional Government Pleader
For R6 to R8	: M/s.V.Srimathi
For R10 & R11	: Mr.L.Chandrakumar for Mr.B.Gokulakrishnan



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ORDER

WEB COPY This Writ Petition has been filed for a Certiorarified Mandamus to Mandamus to call for the records pertaining to the orders passed by the 3rd Respondent in Ni.Mu.D3/9471/2018 dated 06.12.2018 and 4th Respondent Pa.Mu.Fi.1/737/2018 dated 07.03.2018 and to quash the same and directing the Respondents 3 and 4 to issue Patta in the name of the Petitioner in respect of the land to an extent of 4464 Sq.Ft together with buildings bearing Door Nos.6,4,8,9,10 and 11 (Old Door Nos.9, 9/1, 9/2, 9/3, 9/4, 9/5) comprised in Town Survey Nos.54/1, 55/1, 57/3, 58, 59, 60, 61, 62, 63/2 and 63/3, Ward No.3, Block No.10, Municipal Ward No.35 of Filter Bed Road (previously Thukkaram Bajanai Koil Street) situate at Vellore Town, Vellore Taluk and District.

2. The case of the Petitioners are that the subject property belonged to one Ramchand Bantia who had inherited from his father being his only legal heir. His father had been in possession and enjoyment of the property by paying all the taxes and patta was also issued in his favour. Ramchand Bantia died on 02.12.1940 leaving behind his wife Panibai. Ramchand Bantia and Panibai did not have any issues. Ramchand Bantia had executed a last Will bequeathing the properties on his wife. The said Panibai was enjoying the



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properties in terms of the Will executed in her favour. On 03.01.1975, Panibai was murdered and after her demise, father of the Petitioner's 1, 2 and 3 and the grandfather of the 4th Respondent had inherited the property as Class II legal heir. Though the said C.Jugraj Bantia had inherited the property as Class II legal heir, since there was an on going investigation on the death of Panibai the property has been seized by the Investigation Officer. The said Jugraj Bantia has applied for letters of Administration on the file of the District Court, Vellore and he had been appointed as as an administrator to administrate the property of late Panibai. Meanwhile, one Shanthilal on the instigation of Narayana Reddy claimed rights to the property by filing O.S.No.526 of 1975. She claimed on the basis of a Will alleged to have been executed by late Panibai. Thereafter, Shanthilal withdrew the Suit on 25.08.1977. Thereafter, one Harish kumar who is no way connected with the family of Ramchand Bantia or Panibai filed an application in I.A.No.313 of 1977 in O.P.No.32 of 1975 claiming himself to be a adoptive son of Panibai. The application was dismissed on 25.08.1977 and C.Jugraj Bantia was given possession of the property and he has been in possession and enjoyment of the same since then. Thereafter, it appears that the said Harish Kumar had filed O.S.No.185 of 1978 against C.Jugraj Bantia for a declaration that he is



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an adoptive son. While the suit was pending, the said C.Jugraj Bantia had died and there was a delay on bringing his record. The delay petition in I.A.No.185 of 1978 was dismissed by the learned Subordinate Judge Vellore on 09.01.1997 stating that the delay was not 28 days but 103 days. Against the same, the said Harish Kumar had preferred a revision before this Court in C.R.P.No.2019 of 1997 which was dismissed on 21.08.1997 and confirmed by the Apex Court on 03.08.1998. Thereafter once again a Suit was filed by the said Harish Kumar in O.P.No.66 of 2002. This Suit was dismissed on 05.08.2024 on the ground that it was hit by Resjudicata. The dismissal order has been taken up on appeal in POP CMA No.2 of 2004 and the appeal was also dismissed. While administering the property as the Class II legal heir, the said C.Jugraj Bantia had executed a Will in favour of his four sons and they have been enjoying the property. Since then proceedings under the Rent Control Act was initiated for evicting certain tenants which had gone in favour of the C.Jugraj Bantia. The Patta in respect of the property stands in the name of Ramchand Bantia. Thereafter, legal heirs of the said C.Jugraj Bantia had applied for mutation of the revenue records and the same has been kept pending. Meanwhile, the 5th Respondent who had no right to the property has executed a Sale Deed in favour of the Respondents 6 to 10 on



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14.09.2016 under Document No.9345 of 2016. All of these C.R.P.No.2143 of 2009 was pending before this Court. Applications have also been moved for transfer of Patta and despite objections, the 4th Respondent has transferred Patta in favour of the 6th Respondent who claimed to be the adoptive son of Panibai and who have lost in the Suit. The Order of the 3rd Respondent observed that the 6th Respondent had been held to be the direct legal heir of Panibai which was not the true fact. The appeal filed to the 3rd Respondent also entered in a dismissal. Therefore, the present Writ Petition has been filed.

3. It is brought to the notice of this Court that the Petitioner herein had already filed a declaration in O.S.No.83 of 2019 before the Hon'ble Principal District Munsif Court, Vellore. Therefore, till the decision in the suit there cannot be a transfer of patta in favour of the Petitioner.



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4. Under these circumstances, the Writ Petition is disposed of and the parties are directed to renew their request after the final disposal of the Suit in O.S.No.83 of 2019. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index : Yes/No
Speaking/Non-speaking Order
Neutral Citation :Yes/No
rgm



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P.T.ASHA, J.

rgm

To

1. The Government of Tamil Nadu,
Represented by its Secretary,
Ministry of Revenue,
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Collectorate Office,
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Vellore.

W.P.No.12627 of 2019
and
W.M.P.No.12861 of 2019

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