



WEB COPY



W.P. No.11993 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2024

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P. No.11993 of 2018

and

W.M.P.Nos.13971 & 13972 of 2018

P.Sivakumar

... Petitioner

Vs.

1.The District Revenue Officer,
Tiruppur.

2.Revenue Divisional Officer,
Dharapuram.

3.Tahsildhar,
Dharapuram.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records culminating in the order of the 1st respondent dated 13.10.2017 bearing Na.Ka. No.4296/2016/J1, confirming the order of the 2nd respondent dated 31.12.2015 bearing Na.Ka. No.1588/2015/A and quash the same and direct the respondents to include the name of the petitioner in the patta with respect to the properties comprised in 70/1A and 70/2B1, situated at Chitaravuthanpalayam Village, Dharapuram.



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For Petitioner : Mr. S. Venugopal Raj
For Respondents : Mr. T. Arun Kumar,
Additional Government Pleader.

ORDER

This Writ Petition is filed seeking to issue a Writ of Certiorarified Mandamus, to call for the records culminating in the order of the 1st respondent dated 13.10.2017 bearing Na.Ka. No.4296/2016/J1, confirming the order of the 2nd respondent dated 31.12.2015 bearing Na.Ka. No.1588/2015/A and quash the same and direct the respondents to include the name of the petitioner in the Patta with respect to the properties comprised in 70/1A and 70/2B1, situated at Chitaravuthanpalayam Village, Dharapuram.

2. The learned counsel for the petitioner submitted that the property originally belongs to the father of the petitioner namely Ponnusamy Chettiar who has got five female children and four male children. The said Ponnursamy died on 08.01.2001. Since the property to an extent of 3.863 acres contained in S.Nos. 67(New S.No.70/2)) and 68 (New S.No.70/1) could not be amicably divided among the four brothers, a partition suit was filed by one Mohan Kumar/one of the brothers of the petitioner, in which preliminary decree was passed granting 1/4th share in favour of his brother



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Mohan Kumar on 22.08.2008, based on which, he made an application before the 3rd respondent seeking to transfer the Patta with respect to the suit schedule properties, in the joint names of petitioner and his brothers. The 3rd respondent by order dated 04.09.2013, included the names of the petitioner and his brothers in the patta. Subsequently, the suit was dismissed for default on 08.01.2015. Thereafter, against the order of the 3rd respondent dated 04.09.2013, an appeal was filed by two of his brothers namely Krishnakukmar and Jothikumar and in pursuance to the same, the 2nd respondent passed an order dated 31.12.2015 canceling the order of the 3rd respondent and thereby, removed the names of the petitioner and his brothers from the Patta. Now the Patta stands in the name of the petitioner's father Ponnusamy Chettiar. Thereafter, the petitioner's brother Mohankumar preferred a revision petition before the 1st respondent against the order of the 2nd respondent dated 31.12.2015 and the 1st respondent passed order dated 13.10.2017 upholding the order of the 2nd respondent dated 31.12.2015 and also stated that all the legal heirs of Ponnusamy are jointly entitled for the remaining properties of the Ponnusamy Chettiar which is unsettled. The contention of the petitioner is that the female legal heirs are not claiming interest in the said properties. Therefore, the Patta has to be issued only in the names of the male



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members namely the petitioner and his brothers. The authorities, without giving opportunity to the petitioner, canceled the Patta already issued in the names of the petitioner and his brothers (male members) who are the legal heirs of the Ponnusamy Chettiar. Hence the present Writ Petition is filed.

3. The learned Additional Government Pleader appearing for the respondents submitted that the father of the petitioner owned a larger extent of land. He divided and settled a portion of the property in favour of his legal heirs through settlement deed and Will and the remaining properties were kept unsettled. After the death of Ponnusamy Chettiar, the petitioner and his brothers obtained Patta in their names. But there was no partition or Will or no settlement in favour of any of the legal heirs independently. Once the owner of a property died intestate, all the legal heirs are entitled to the property unless they produce any testamentary or document in favour of any one of the legal heirs. Therefore, the 1st respondent passed the impugned order stating that all the legal heirs of the Ponnusamy Chettiar are jointly entitled for the remaining unsettled properties of the said Ponnusamy Chettiar. Therefore, there is no perversity in the impugned order passed by the 1st respondent.

4. Admittedly, after the death of the owner of a property, all his legal heirs are entitled for the joint Patta. In this case, the petitioner's father



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died intestate leaving behind his legal heirs namely his sons and daughters.

As stated above, unless any testamentary or document is produced in favour any one of the legal heir, all the legal heirs are entitled to the property. Under these circumstances, this Court does not find any illegality or impunity in the order passed by the 1st respondent.

5. Accordingly, this Writ Petition is dismissed. Consequently, connected Miscellaneous Petitions are closed. No costs.

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Index : Yes / No

Speaking Order : Yes / No

Neutral Case Citation : Yes/No

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To
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P.VELMURUGAN. J.

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