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WP.No.13002 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **01.07.2024**

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.No.13002 of 2024

1. Meera Shekar
2. Chandrakala @ Kalavathi
3. J.Ezilmanian
4. .Meghala

.. Petitioners

Versus

1. The Revenue Divisional Officer,
Gudalur, The Nilgiris District.
2. The Revenue Tasildar,
Gudalur, The Nilgiris District.

Ummer [deceased]

3. Kadheeja
4. Abbas
5. Shiabudeen
6. Rahamathunnissa

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents herein to consider the representation of the petitioners dated 1.10.2018 and reminders dated 23.09.2020 and 12.02.2024 and to resurvey the land in R.S.No. 1084/22 for S.No. 162 Part situated at Gudalur Village, Gudalur Taluk, Nilgiris District and to conduct proper enquiry and to issue separate patta in the name of the petitioners.



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For Petitioners : Mr.A.Jagadeeswari

For Respondents : Mr.P.Sathish
Additional Government Pleader – R1 & R2
R3 to R6 – No appearance

ORDER

This Writ Petition is filed to direct the first and second respondents to consider the representation of the petitioners dated 1.10.2018 and reminders dated 23.09.2020 and 12.02.2024 and to resurvey the land in R.S.No. 1084/ 22 for S.No. 162 Part situated at Gudalur Village, Gudalur Taluk, Nilgiris District and to conduct proper enquiry and to issue separate patta in the name of the petitioners.

2. Heard learned counsel for the petitioners and the learned Additional Government Pleader appearing for the first and second respondents and perused the materials available on record.

3. It is the case of the petitioners that originally, property to an extent of 46 cents belonged to one Manickam Pillai, who is the grandfather of the first petitioner and the said Manickam Pillai executed a Will in favour of the father of the first petitioner, Subramanian Pillai, bequeathing 23 cents.



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Subsequently, the father of the first petitioner sold 3 cents of land out of 23 cents comprised in S.No.162 part, on the eastern portion of the above said property along with 3 cents in S.No.165/2, totally 6 cents as per Doc.No.869 of 1950. Thereafter, on 18.01.1967, the father of the first petitioner sold 8 ¼ cents and in respect of the remaining 11 ¾ cents, he executed a Will in favour his sons, viz., the first petitioner and his brother late Jayakumar. While so, during resurvey settlement, the settlement authorities wrongly plotted the areas in possession and enjoyment of the father of the first petitioner without considering the registered sale deeds and issued joint patta in the name of the later Subramanian Pillia, the father of the first petitioner and one Ummer without any intimation to the father of the first petitioner. Therefore, the petitioners filed a suit in O.S.No.169 of 2005 for declaration and permanent injunction before the learned District Munsif, Gudalur and the same was dismissed and the appeal filed against the same in A.S.No.15 of 2017 has also been dismissed on 28.03.2018. Aggrieved over the same, the petitioners have preferred a Second Appeal in S.A.No.776 of 2018, which pending before this Court. Similarly, the said Ummer has filed a suit in O.S.No.25 of 2007 for bare injunction which is also dismissed in appeal. At this stage, writ petitioner seeks a direction to the first and second respondents for issuance of separate patta in the names of the petitioners.



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4. At the outset, this Court is of the view that when suit filed for declaration has been dismissed by the trial and the first appellate Court also confirmed the judgment of the trial Court and the second appeal is now pending, the petitioners cannot now invoke writ jurisdiction to gather evidence, seeking direction to the revenue authorities. When the petitioner is not able to get declarative right over the property in a civil suit, cannot invoke writ jurisdiction to achieve what he could not achieve in a civil forum. It is open to the petitioners to seek their remedy in the pending second appeal. Hence, I do not find any merits in this Writ Petition.

5. Accordingly, this writ petition is dismissed. No costs.

01.07.2024

vrc

Index :Yes/No
Internet :Yes/No
Neutral Citation : Yes/No

To,

1. The Revenue Divisional Officer,
Gudalur, The Nilgiris District.
2. The Revenue Tasildar,
Gudalur, The Nilgiris District.



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N. SATHISH KUMAR, J.

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