



W.P.No.4681 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2024

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THE HONOURABLE MR.JUSTI CE P.VELMURUGAN

W.P.No.4681 of 2024

and

W.M.P.Nos.5110 and 5282 of 2024

1.S.Ramesh
2.S.Mekhala

... Petitioners

versus

1.The Chief Secretary to Government of Tamil Nadu,
Secretariat, Fort St.George,
Chennai – 600 009.

2.The District Collector,
Chennai District,
Chennai.

3.The Commissioner of Land Reforms and
Land Administration,
Chennai – 600 005.

4.The Tahsildar,
Ayanavaram Taluk,
Chennai – 600 011.

.....Respondents

Writ Petition filed under Article 226 of Constitution of India, praying

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to issue a Writ of Certiorarified Mandamus, call for the records of the impugned proceedings of the 4th respondent herein in Procs.No.A1/3737/2022, dated 23.12.2022 and quash the same and consequently, directing the third respondent to pass order as per the order dated 07.04.1999 in W.P.No.17396 of 1990 for grant of patta in favour of the petitioner.

For Petitioner : Mr.A.Ilayaperumal

For Respondents : Mr.T.Arun Kumar
Additional Government Pleader

ORDER

Mr.T.Arun Kumar, learned Additional Government Pleader accepts notice for the respondents. With the consent of both parties, the main writ petition is taken up for final disposal at the admission stage itself.

2. This writ petition has been filed to quash the impugned proceedings in Procs.No.A1/3737/2022, dated 23.12.2022 passed by the fourth respondent herein and consequently, direct the third respondent to pass orders as per the order dated 07.04.1999 in W.P.No.17396 of 1990 for grant of Patta in favour of the petitioners.

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3. The case of the petitioners is that the petitioners' grandmother Chinnammal is the absolute owner of the property in T.S.Nos.12/2 and 27, Ayanavaram Village, Ayanavaram Taluk Chennai and after her demise, the subject property devolved upon the legal heirs of Chinnammal, i.e the petitioners' father and his brothers and sisters. While that being so, the third respondent herein, vide order dated 28.06.1990, cancelled the Patta that stood in the name of the petitioners' father and his brothers and sisters. As against the said order, they have filed a writ petition in W.P.No.17396 of 1900 and this Court, by order dated 07.04.1999, quashed the order of the third respondent and remitted the matter back to the authority concerned for fresh consideration. After the death of the petitioners' father, the petitioners came to know that the Patta was not transferred in the name of their father and his brother and sisters. While so, one of the co-sharer of the subject lands, i.e. one J.Gopinathan had submitted a detailed representation on 20.08.2020 before the fourth respondent herein, but the same was not considered and hence, the said J.Gopinathan filed a writ petition in W.P.No.1634 of 2021, seeking to issue Patta in his favour and other legal heirs and this Court, by order dated 17.02.2021, directed the fourth

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respondent herein to dispose of the said representation, after issuing notice to all the parties and after providing a fair and effective hearing of all the parties. Thereafter, the fourth respondent passed the impugned order dated 23.12.2022, without affording due opportunity of hearing to all the parties, including the petitioners. Though the fourth respondent has violated the principles of natural justice while passing the impugned order, the petitioners are constrained to file the present writ petition by invoking Article 226 of Constitution of India.

4. Heard both sides and perused the materials available on record.

5. On a perusal of the records, it is seen that one of the co-shares of the subject lands is J.Gopinathan (S/o.S.Jadhavan), who is none other than the brother of the second petitioner and cousin brother of the first petitioner herein. The said Gopinathan had filed a writ petition in W.P.No.1634 of 2021 seeking for issuance of Patta in respect of subject lands and this Court, by order dated 17.02.2021, directed the fourth respondent herein to pass appropriate orders, after giving due opportunity of hearing to all the parties. Thus, the fourth respondent has conducted enquiry and passed the impugned

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order on 23.12.2022 and the copy of the order was also communicated to the said J.Gopinathan. It is not known as to whether the said Gopinath or any other parties have filed the writ petition or not, challenging the present impugned order. However, the petitioners have filed the present writ petition, challenging the order of the fourth respondent dated 23.12.2022. In case, the petitioners are aggrieved by the impugned order passed by the fourth respondent, they have got an efficacious alternative remedy before the Revenue Divisional Officer, but without exhausting the said remedy, they have filed the present writ petition. It is further seen that the petitioners have also not impleaded the said J.Gopinathan, as a party in the present writ petition. The petitioners have not come to the Court with clean hands, since they have not disclosed the actual facts. Therefore, the writ petition is liable to be dismissed. However, if the petitioners are aggrieved by the impugned order passed by the fourth respondent, they can work out their remedy in the manner known to law.

6. With the above observations, the writ petition is dismissed. Consequently, connected W.M.P.No.5282 of 2024 is closed.

7. W.M.P.No.5110 of 2024 is ordered on payment of separate Court fees by each of the petitioners.

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8. However, there shall be no order as to costs.

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Index: Yes/No
Speaking Order : Yes/No
Neutral Citation Case : Yes/No
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To

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