



WEB COPY



WP No. 33964 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.12.2024

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No. 33964 of 2024
and W.M.P.No.36779 of 2024

1. Aruchamy
2. Janaki
3. Thirilokasundari

... Petitioners

Vs.

1. The Revenue Divisional Officer,
Udumalaipet,
Thirupur District
2. The Thasildar,
Udumalaipet,
Thirupur District
3. V. Varatharaj
4. Kaleeswari
5. Mangaiyarkarasi

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking to issue Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order in Pa.Mu.No.2641/2024/A3 dated 09.10.2024 on he file of the 1st respondent and quash the same, and consequently direct the 1st and 2nd respondents to restore the Patta Nos. 47 and 1037 in the name of the petitioners.



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For Petitioners : Mr. K Sudhakar

For Respondents 1&2: Mr. Satish,

Additional Government Pleader

ORDER

The learned counsel for the petitioner who had earlier sought time to get instructions regarding the withdrawal of this writ petition, now states that he is not intending to withdraw this writ petition and has proceeded to make his submissions.

2. The facts which have culminated in filing of this writ petition are herein below set out.

(i) It is the contention of the petitioners that their father, Ponnusamy Gounder, had entered into an agreement of sale with one Kandasamy Gounder to purchase the agricultural properties. The details of the property, however, have not been set out in the affidavit filed in support of the petition nor in the writ petition. It is their further case that, on the date of the agreement itself, possession was given to their father and the entire sale consideration was paid.

Since the vendor, Kandasamy Gounder, had fallen ill, he did not execute the



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sale deed in favour of the petitioner's father. Thereafter, he passed away, and on the basis of the sale agreement, the petitioner's father had applied for the transfer of patta, which was also transferred in the name of the petitioner's father by order dated 16.12.1991. Till his life time, he had been in enjoyment of the property. After his demise on 08.12.1996, the petitioners have been in enjoyment of the said property. The petitioners had thereafter wanted to partition the property, to which his brother Sellamuthu had not cooperated, and therefore, a suit O.S.No.699 of 2021 was filed for partition on the file of the IV Additional District Court, Udumalpet. Meanwhile, the petitioner would contend that, on the instigation of Sellamuthu's wife, the 3rd respondent herein filed a petition before the 1st respondent alleging that the said Kandasamy Gounder had not sold the property to anybody and he claimed to be the legal heir of the said Kandasamy Gounder. He therefore sought for cancellation of the patta.

(ii). The petitioners would submit that they were called for an enquiry and the 1st respondent has passed an impugned order cancelling the patta standing in their name and restoring the same in the name of Kandasamy Gounder. Hence, this writ petition.



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3. Heard the learned counsels on either side.

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4. In the impugned order, the 1st respondent had observed that the petitioners do not have any title to the property and were making a claim only on the basis of an agreement of sale. The 1st respondent had also noted the fact that the petitioner's father had not filed any suit for enforcing the agreement, more particularly when it is their contention that the entire sale consideration had been paid and possession had been handed over to him. A patta was also issued in favour of the petitioners. Admittedly, the petitioners are only agreement holders and they have not taken any steps to specifically enforce the agreement or have their title declared when the original vendor and purchaser were alive. The date of the death of the said Kandasamy Gounder has not been provided in the affidavit filed in support of this writ petition. The 3rd respondent has questioned the issue of patta in favour of the petitioners by stating that the said Kandasamy Gounder had not executed any agreement of sale. The 3rd respondent has further submitted that the "A" register, electricity connection, etc., continue to be in the name of Kandasamy Gounder. The said Kandasamy Gounder died as a bachelor, issueless. After his death, the patta was transferred clandestinely in the name of the petitioners' father.



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5. The 1st respondent by the impugned order has cancelled the patta and reverted it back to the name of the original owner, Kandasamy Gounder directing the parties to establish their title before the Civil Court, I see no reason to interfere with the well considered order passed by the 1st respondent. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

19.12.2024

Index: Yes/No

Speaking order/non-speaking order

Neutral Citation: Yes/No

srn

To,

1. The Revenue Divisional Officer,
Udumalaipet,
Thirupur District
2. The Thasildar,
Udumalaipet,
Thirupur District



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P.T.ASHA, J.,

srn

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(2/2)