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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.29002 of 2017
and
W.M.P.No.31233 of 2017

1.Palavettu Reddy
2.Murugan Reddy ... Petitioners

versus

1.The District Revenue Officer (DRO),
Thiruvallur District,
Thiruvallur – 602 001.

2.The Revenue Divisional Officer (RDO),
Ponneri Revenue Division,
Ponneri – 601 204,
Thiruvallur District.

3.The Tahsildar,
Ponneri Taluk,
Ponneri – 601 204,
Thiruvallur District.

4.Jeyapal

5.Easwaraiyah .....Respondents

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

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to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent and quash the impugned order in Na.Ka.No.17377/2015/A3, dated 16.10.2017 passed by the 1st respondent cancelling the patta of the petitioners in Patta No.210 and 260 pertaining to Survey Nos.516/2A and 516/2B, Arani Village, Ponneri Taluk, Thiruvallur District, as the same is perverse, arbitrary, illegal, untenable, smacks of *malafide* and colourable exercise of power and consequentially direct the respondents 1 to 3 to mutate the Revenue Records in respect of 82 cents in Survey No.516/2, Arani Village, Ponneri Taluk, Thiruvallur District, amongst the petitioners and respondents 4 and 5 based on their holdings.

For Petitioners : Mr.N.R.Anantha Ramakrishnan

For Respondents : Ms.Akila Rajendran
Government Advocate for R1 to R3

Mr.P.Subba Reddy
for R4 and R5

<u>O R D E R</u>

This writ petition has been filed to quash the impugned order in Na.Ka.No.17377/2015/A3, dated 16.10.2017 passed by the first respondent and for consequential relief.

2. The learned counsel for the petitioners submitted that the subject

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property in S.No.516/2, measuring an extent of 82 cents, originally belongs to one Manicka Chetty, and he settled the property in favour of his daughter one Kanakambarammal, by way of a registered Settlement Deed dated 25.11.1938. Subsequently, the petitioners' father one Kuppu Reddy purchased 72 cents out of 82 cents in the subject property under a registered Sale Deed dated 29.08.1981, vide Doc.No.1387 of 1981. Since then, the petitioners and their father are in absolute possession and enjoyment of the said property. During the lifetime of the petitioners' father, 72 cents were orally and amicably divided equally between the petitioners herein and they also obtained Patta in Patta Nos.210 and 260. While so, respondents 4 and 5 herein have purchased an extent of 4 ½ cents, each, out of the remaining 10 cents in the subject property from the said Kanakambarammal vide registered Doc.Nos.100/1995 and 101/1995. The remaining extent 1 cent could continue in the name of Kanakambarammal as common passage. Thereafter, respondents 4 and 5 filed an application seeking for issuance of separate Patta for the extent 4 ½ cents each in their favour. In that process it had came to the light that by inadvertence the remaining extent of 10 cents was also included in the Pattas, which were issued in favour of the petitioners herein in the Natham Updating Scheme in 1987. Hence,

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respondents 4 and 5 approached the second respondent and sought for necessary corrections in the Revenue Records and issue separate patta in their favour for the extent of 4 ½ cents each. However, the first respondent, without proper enquiry passed the impugned order by cancelling the entire Patta stood in the name of the petitioners and to revert the entire extent of 82 cents in S.No.516/2, in the name of Kanakambarammal. Challenging the same, the present writ petition has been filed.

3. The learned counsel for the fourth respondent submitted that respondents 4 and 5 have purchased 4 ½ cents each out of 10 cents in S.No.516/2 from one Kanakambarammal by way of a registered sale deed. Originally, the petitioners' father purchased 72 cents in S.No.516/2, however, the petitioners, suppressed the facts and obtained Patta for the entire extent of 82 cents. While so, respondents 4 and 5 made an application sought for cancelling the Patta issued in favour of the petitioners and make necessary corrections in the Revenue Records and also sought for issuance of separate Patta in their favour in respect of their entitlement. The first respondent without proper enquiry cancelled the Patta for the entire extent of 82 cents and restore in the name of the previous owner, instead of cancelling

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Patta to an extent of 10 cents, and issue separate Patta for the entitlement of respondents 4 and 5.

4. The learned Government Advocate appearing for the respondents submitted that respondents 4 and 5 have made an application to the third respondent stating that Patta to the entire extent of 82 cents of land in S.No.516/2 was granted in favour of the petitioners during UDR scheme, though the petitioners' father purchased only an extent 72 cents alone. Thereafter, the third respondent after obtaining necessary report from Revenue Inspector, Arani and after proper enquiry, sent a detailed report to the first respondent recommending to restore as it was prior to UDR scheme. It is submitted that entire extent of 82 cents have been in possession of one Kanakambarammal, prior to UDR scheme in respect of the subject land. During the enquiry, the petitioners themselves admitted that though their father purchased only 72 cents in the subject land, however, the Government had granted patta for the entire extent of 82 cents, but the petitioners did not submit the sale deed for the purchase of an extent of 10 cents. After an opportunity was given to the petitioners, the first respondent taken into cognizance of the facts and passed the impugned order for correcting the

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defects made during UDR scheme in having erroneously granted Patta in favor of the petitioners for the entire extent of 82 cents in the reference land and to restore the position prevailed prior to UDR scheme. He further submitted that the first respondent is competent authority to pass an order for mutation only, if the petitioners submit their representation along with relevant documents to sub divide the entire extent of 82 cents such as 36 cents to each of the petitioners and 4 ½ cents to each of the respondents 4 and 5 and the remaining 1 cent to be restored to Kanakambarammal, the same will be considered by the third respondent and accordingly, Patta will be issued in their favour. He further submitted that challenging the impugned order, the petitioners alone filed the present writ petition, however, respondents 4 and 5 have not filed any petition. Therefore, this writ petition is not maintainable either in law or on facts.

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

6. Admittedly, one Kanakambarammal is the original owner of entire extent of 82 cents in S.No.516/2. Subsequently, the petitioners' father purchased 72 cents out of 82 cents and the remaining 10 cents was with

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Kanakambarammal. However, the petitioners' father obtained Patta to the entire extent of 82 cents. Subsequently, respondents 4 and 5 have purchased each 4 ½ cents out of 10 cents from one Kanakambarammal, while so, they made an application for necessary corrections in the Revenue Records and issuance of separate Patta in their favour. However, the first respondent instead of cancelling the Patta stood in the name of the petitioners' father to an extent 10 cents, cancelled for the entire extent of 82 cents.

7. It is not in dispute that the petitioners' father purchased 72 cents from one Kanakambarammal under a registered sale deed dated 29.08.1981 and the respondents 4 and 5 purchased each 4 ½ cents in land in question. The first respondent ought not to have cancelled Patta stood in the name of the petitioners' father to the entire extent, therefore, the impugned order is liable to be set aside.

8. Accordingly, this Writ petition is allowed by setting aside impugned order dated 16.10.2017 in Na.Ka.No.17377/2015/A3 passed by the first respondent. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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