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W.P. No.35422 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2024

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P. No.35422 of 2023 and
W.M.P. Nos.35378 and 35379 of 2023

1. A.Adhinarayanane
2. A.Deivasigamani

... Petitioners

Vs.

1. The District Collector
Villupuram District
Villupuram
2. The District Revenue Officer
Villupuram District
Villupuram
3. The Revenue Divisional Officer
Villupuram District
Villupuram
4. The Tahsildar
Vanur Taluk
Villupuram District
5. Balamurugan

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus to call for records relating to the impugned order passed by the 3rd respondent dated 31.10.2023 made in Se.Mu.No.A3/3368/2023 and to quash the same, consequently direct the 4th respondent to restore the patta in the name of the petitioners and his family



members in respect of land comprised in Old Survey No.129/2, sub divided New Survey No.159/2B to an extent of 0.24.28 ares (60 cents) situate at Pattanur Village, Vanur Taluk, Villupuram District.

For Petitioners : Mr.C.Prabakaran

For R1 to R4 : Mr.R.U.Dinesh Rajkumar
Additional Government Pleader

ORDER

This Writ Petition is filed seeking a Writ of Certiorarified Mandamus to call for records relating to the impugned order passed by the 3rd respondent/Revenue Divisional Officer, dated 31.10.2023, made in Se.Mu.No.A3/3368/2023 and to quash the same, consequently direct the 4th respondent to restore the Patta in the name of the petitioners and their family members in respect of land comprised in Old Survey No.129/2, sub divided New Survey No.159/2B to an extent of 0.24.28 ares (60 cents) situate at Pattanur Village, Vanur Taluk, Villupuram District.

2. The learned counsel for the petitioners submitted that the petitioners mother had purchased the property from the legal heirs of one Veerappa Gounder who is the original owner of the property, way back in the year 1980 and since then, they are in possession of the property. While so, one of the



daughters of the said Veerappa Gounder filed a suit for partition and got a preliminary decree for 1/8th share. Though the mother of the petitioners challenged the same in A.S.No.135 of 2000, she lost her case. However, till now, no steps were taken by the plaintiff in the suit for final decree. Further, the other legal heirs of the said Veerappa Gounder sold a portion of the property to third parties and that the said third parties were not impleaded as parties to the suit. However, the Tahsildar/4th respondent without giving notice or opportunity of hearing to the petitioners, changed the Patta in favour of the 5th respondent herein. Hence, challenging the order of the 4th respondent, the petitioners filed an appeal before the 3rd respondent. Though the 3rd respondent gone into deep beyond the scope of the dispute and dismissed the appeal, liberty was granted to the parties to move before the Civil Court. The contention of the petitioner is that the petitioners are in possession of the property from the year 1980 and without considering the same and without giving opportunity of hearing to the petitioners, the name of the subsequent purchaser has been included in the Patta which is against the Patta Pass Book Act. Therefore, the impugned order is liable to be set aside.

3. Mr.R.U.Dinesh Rajkumar, learned Additional Government Pleader takes notice for the respondents 1 to 4. Since no adverse order is passed against the 5th respondent, notice to the 5th respondent is dispensed with.



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4. Heard and perused the materials available on record.

5. It is an admitted fact that the mother of the petitioners purchased the property from the some of the legal heirs of one Veerappa Gounder and subsequently, one of the daughters of the said Veerappa Gounder filed a suit and got a preliminary decree for 1/8 th share. According to the petitioners, final decree has not been passed. However, it is for the plaintiff in the suit to work out her remedy to get the final decree. The preliminary decree does not show that the petitioners' mother is entitled to the entire property. However, the petitioners' mother's share is declared as 3/8. Neither the Revenue Authorities nor the Writ Court can declare the shares of each persons which is purely civil in nature. The Civil Court alone is the competent forum to declare the shares of the persons and right and title and also the entitlement. Admittedly, the petitioners have not challenged the judgment and decree passed in A.S. No.135 of 2000 and unless they challenge the same and the preliminary decree passed by the trial Court is set aside, the petitioners are not entitled to the entire property and they are only entitled to 3/8th share. However, it is seen that the petitioners' mother's name has not been deleted from the Patta. Only the names of the subsequent purchaser and some of the



legal heirs of the said Veerappa Gounder has been included in the Patta.

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6. Under these circumstances, this Court does not find any perversity or erroneous in the order passed by the 3rd respondent. However, the petitioners are at liberty to work out their remedy before the Civil Court in the manner known to law.

7. Accordingly, this Writ Petition is dismissed at the admission stage itself. There shall be no order as to costs. Consequently, connected Miscellaneous Petition in W.P.No.35379 of 2023 is closed. W.P.No.35378 of 2023 is ordered subject to payment of separate Court fee by the other writ petitioner.

03.01.2024

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Index : Yes / No

Neutral Citation Case : Yes/No



To

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P.VELMURUGAN. J.

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