



W.P.No.29435 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2024

CORAM

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.29435 of 2018

- 1.Devika
2. Chinnamani
3. Ramachandran

... Petitioners

Vs.

1. The District Revenue Officer and Additional
District Executive Magistrate,
DRO, Office, State Bank Road,
Coimbatore - 18.
2. The Revenue Divisional Officer,
Coimbatore.
3. The Tashildar,
Perur Taluk Office,
Perur, Coimbatore.
4. The Nathan Sub-Inspector,
South Taluk Office,
Coimbatore.
5. Syed Sadaullah

... Respondents



W.P.No.29435 of 2018

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for records pertaining to the order passed by the first respondent in Ni.Mu.10445/2012/C1 dated 27.03.2018 thereby confirming the order of the second respondent passed in Ni.Mu.7025/2011/A2 dated 17.04.2012 and quash the same and consequently, direct the respondents 1 to 3 to issue patta in the name of the petitioners on the ground of the legal heirs of the deceased Kunjammal for the land in S.F.No.184/2B4 to an extent of 2498 Sq.ft. at Kuniyamuthur Village, Perur Taluk, Coimbatore District.

For Petitioner : Mr.V.Sivakumar

For Respondents : Mr.K.Suresh
Govt. Advocate for R1 to R4
Mr.K.Myilsamy for R5

O R D E R

The Writ Petition has been filed as against the impugned order passed by the first respondent dated 27.03.2018 confirming the order passed by the second respondent dated 17.04.2012, in and by which, the patta issued in the name of the petitioners' deceased mother was canceled and for a consequential direction to the respondents 1 to 3 to issue patta in the name of the petitioners for the land in S.F.No.184/2B4 to an extent of 2498 Sq.ft. at Kuniyamuthur Village, Perur Taluk, Coimbatore District.



W.P.No.29435 of 2018

WEB COPY

2. The case of the petitioners is that the petitioners belong to Schedule Caste (Pallar) Community and their mother, namely, Kunjammal was in possession and enjoyment of land in S.F.No.184/2B4 measuring to an extent of 2498 sq.ft situated at Kuniyamuthur Village for more than 45 years and she also continuously paid "B" memo in her name. By considering the poorness and community, the Government of Tamil Nadu has assigned patta in her name on 02.08.2002 and she became the title owner of the property. Even though assignment was made in the year 2022, patta was issued belatedly in the year 2005 in the name of Kunjammal.

3. It is the further case of the petitioners that during the year 2008, the petitioner's mother fell ill and she moved to the third petitioner's house. Taking advantage of the same, the fifth respondent illegally occupied the property and raised construction stating that he has got sale deed in his favour. The fifth respondent has gone to an extent of getting patta in his name by filing a petition before the Revenue Tribunal. On the request of the third respondent, the second respondent passed an order on 17.04.2012



W.P.No.29435 of 2018

WEB COPY

canceling the patta stood in the name of petitioners' mother and also ordered to grant patta in favour of fifth respondent. The petitioners' mother was not at all received any notice and no opportunity has been given to put forth her case. As against the said order, the petitioners' mother preferred revision before the first respondent on 04.05.2012 by enclosing all necessary documents. In the meanwhile, the petitioners' mother died on 28.10.2012 and the factum of death and particulars of legal heirs were also furnished to the first respondent. The petitioners were not added as parties to the said proceedings and they have not received any notice from the first respondent. However, on 27.03.2018, the first respondent has dismissed the revision. Challenging the same, the petitioners are before this Court.

4. The learned counsel appearing for the petitioners submitted that without taking into consideration the documents filed by the petitioners' mother, the first respondent has passed the impugned order on 27.03.2018 by confirming the order of the second respondent dated 17.04.2012, by which, the patta issued to the petitioners' mother was cancelled. Hence, this



W.P.No.29435 of 2018

Court may set aside the impugned order and direct the first respondent to conduct a fresh enquiry.

5. The learned Government Advocate appearing for the respondents 1 to 4 submitted that the fifth respondent had purchased the property vide Sale Deed No.3966 of 2009 dated 18.11.2009. Based on the the application of the fifth respondent and considering that the patta mutated in favour of the petitioners' mother Kunjammal vide M.T.R.No.2008/2002 had been made without any registered document in her favour and no such entries were available in connected revenue records, the name of Kunjammal was removed from Patta No.2019 in respect of the said property and the fifth respondent's name was mutated. He further submitted that the fifth respondent had produced the registered Sale Deed No.3966/2009 dated 18.11.2009 in support of his title over the said property. Subsequently, during the revision, the petitioners' mother Kunjammal has produced a registered settlement deed dated 06.05.2011 executed by her in favour of the second petitioner. The fifth respondent had a prior title deed and thus, the



W.P.No.29435 of 2018

said order of the second respondent towards the mutation of the name in the patta is in accordance with law.

6. This Court gave its anxious consideration to the submissions advanced by the learned counsel appearing for the petitioner, the learned Government Advocate for the respondents 1 to 4 and the learned counsel for the fifth respondent and perused the materials available on record.

7. In view of the above factual matrix of the case, the order passed by the first respondent in N.Mu.10445/2012/C1 dated 27.03.2018 thereby confirming the order of the second respondent passed in Ni.Mu.7025/2011/A2, dated 17.04.2012 is hereby quashed and the matter is remanded back to the first respondent for a fresh enquiry. This Court directs the first respondent to conduct a fresh detailed enquiry, after giving due notice to both the parties (petitioner and the fifth respondent), opportunity of personal hearing, to consider the documents filed by both parties, pass appropriate orders, on merits and in accordance with law by following the



W.P.No.29435 of 2018

WEB COPY

above principles of natural justice, within a period of three months from the date of receipt of a copy of this order.

8. This Writ Petition is disposed of with the above observation and directions. No costs.

27.06.2024

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No

vji

To

1. The District Revenue Officer and Additional District Executive Magistrate,
DRO, Office, State Bank Road,
Coimbatore - 18.01.2016
2. The Revenue Divisional Officer,
Coimbatore.
3. The Tashildar,
Perur Taluk Office,
Perur, Coimbatore.
4. The Nathan Sub-Inspector,
South Taluk Office,
Coimbatore.



WEB COPY



W.P.No.29435 of 2018

J.SATHYA NARAYANA PRASAD, J

vji

W.P.No.29435 of 2018

27.06.2024