



W.P.No.34745 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2024

CORAM :

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.34745 of 2018
and
W.M.P.No.40273 of 2018

1.T.Revathi

2.M.Murugesan

3.Rajamani

4.Thangamani

... Petitioners

Vs.

1.State Represented by
The District Collector,
Coimbatore, Coimbatore District.

2.The Sub-Collector,
Coimbatore North,
Coimbatore District.

3.The Tashildar,
Coimbatore North,
Coimbatore District.

4.K.Balasubramanian

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records in Na.Ka.No.8215/2017/E1 dated 05.03.2018 on the file of the third respondent and quash the same.

For Petitioners : Mr.T.Balaji
For Respondents :
For R1 to R3 : M/s.R.L.Karthika
Government Advocate

For R4 : Mr.N.Ponraj

ORDER

This Writ Petition has been filed seeking for issuance of a certiorari, to call for the records in Na.Ka.No.8215/2017/E1 dated 05.03.2018 on the file of the third respondent and quash the same.

2. The brief facts of the case are as under:-

2.1. The petitioners are hailing from same family and the interest of the petitioners are common and all are aggrieved by the action of the third respondent and the subject matter of the writ petition and cause of action is also one and the same. The property measuring to an extent of 1.12 Acres in S.No.1152/1 situated at Kalapatti Village, Coimbatore and the other properties were originally owned and enjoyed by the petitioners paternal



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Grandfather Ramana Gounder. The above said 1.12 Acres of land and other properties were partitioned by his sons viz., Kumarasamy and Marappa Gounder and they allotted some lands to their mother for enjoyment during her lifetime and a Partition Deed was registered as Doc.No.3816 dated 20.06.1962 in the Sub Registrar Office, Gandhipuram, Coimbatore. The said Marappa Gounder is father of the first to third petitioners.

2.2. The said Marappa Gounder and his sons have mortgaged the above said land in S.No.1152/1 and other properties on 08.03.1985 in the Co-operative Primary Land Development Bank, Coimbatore under the Mortgage Deed in Doc.No.1064/1985 dated 12.03.1985 registered in the Sub Registrar Officer, Gandhipuram, Coimbatore. The said Marappa Gounder died on 23.08.1988. Even after his death, the above said 1.12 Acres of land in S.No.1152/1 was in exclusive possession and enjoyment of his legal heirs and the mortgage land has been redeemed by the second petitioner on 31.08.2010 as per Doc.No.6762/2010 dated 15.09.2010 registered in the Sub Registrar Office, Gandhipuram, Coimbatore. Patta



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for the above said land was issued in favour of the mother of the first to third petitioners namely Kaliammal.

2.3. The first to third petitioners brother/the fourth petitioner husband namely Kandasamy died on 07.04.2003 and the fourth petitioner sent application to the third respondent on 21.07.2003, to include the names of the legal heirs in the Joint Patta of the above said land and other properties. Accordingly, orders were passed on 20.08.2003 including their names in the Joint Patta by the Zonal Deputy Tashildar, Anuparpalayam, Coimbatore North Taluk Office, Coimbatore.

2.4. The fourth respondent while partitioning his properties under the Registered Partition Deed in Doc.No.1368 dated 01.03.2010, has shown the property of the mother of the first to third petitioners namely Kaliammal in S.No.1152/1 as one of the boundaries.

2.5. After the death of Marappa Gounder, the above said 1.12 Acres of land in S.No.1152/1 and other properties were partitioned by Kaliammal



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and the petitioners vide Partition Deed dated 29.09.2011 in Doc.No.7989 registered in the Sub Registrar Office, Gandhipuram, Coimbatore. Subsequent to the said Partition Deed, 1.12 Acres of land in S.No.1152/1 was sub divided as per the shares of the legal heirs of Marappa Gounder and the Patta, Chitta etc., were also changed in their names. The third respondent has also given Ownership Certificate on 12.09.2013 that the petitioners are the owners of the lands in S.No.1152/1B, C, D and E, each comprising 21 cents, each having S.No.1152/1A in Patta No.2765, jointly owned and used commonly.

2.6. The fourth respondent having knowledge about the possession and enjoyment of the above said land 1.12 Acres of land in S.No.1152/1 by Late Marappa Gounder and then by his legal heirs even prior to 1962, filed application before the third respondent on 21.07.2017 and questioned the petitioners title, possession and enjoyment of the land. In response, the third respondent without due enquiry, submitted his proposal/recommendation in Na.Ka.No.8215/2017/E1 dated 05.03.2018 to the second respondent for cancellation of Patta, Sub divisions etc., in



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S.No.1152/1 and on the basis of such proposal/recommendation, the second respondent issued notice in NA.Ka.No.908/2018/A2 dated 10.09.2018, to the petitioners, to produce the original documents. In response to the above said notice, on 17.09.2018, the first petitioner appeared and produced all the documents in support of the title, possession and enjoyment of the land in S.No.1152/1. But, the fourth respondent has neither appeared nor produced any documents.

2.7. Though the third respondent enquired the petitioners about the title etc., he has not furnished the result of such enquiry. Thereafter, the petitioners requested the second respondent to furnish the result of the enquiry, but, the same was denied. Hence, the first petitioner filed W.P.No.29355 of 2018 and on instructions, the third respondent furnished the enquiry result. The petitioners have also filed O.S.No.1555 of 2017 before the II Additional District Munsif Court, Coimbatore for declaration and consequential injunction. During the pendency of the suit and without recording the absence of the fourth respondent in the enquiry on 17.09.2018, the second respondent bent upon to decide the title of the



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petitioners property in pursuance of the proposal/recommendation of the third respondent in Na.Ka.No.8215/2017/E1 dated 05.03.2018. Hence the writ petition.

3. At the time of admission of the present writ petition, on 04.01.2019, this Court has granted interim stay for a period of four weeks and the same was subsequently extended until further orders by this Court on 26.03.2019. For the last five years, the fourth respondent has not taken any steps to vacate the interim order passed by this Court.

4. Learned counsel appearing for the petitioners submitted that the petitioners have filed O.S.No.1555 of 2017 on the file of the II Additional District Munsif Court, Coimbatore for declaration and the fourth respondent is the defendant in the suit. The suit is in the trial stage. He further submitted that this Court be direct the II Additional District Munsif Court, Coimbatore, to dispose the suit as expeditiously as possible, preferably, within a period of six months.



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5. Learned Government Advocate appearing for the first to third respondents and the learned counsel appearing for the fourth respondent have no objection for passing the above order.

6. Learned counsel appearing for the fourth respondent submitted that the petitioner has challenged only the internal communication between the third respondent the Tahsildar, Coimbatore North, Coimbatore District and the Revenue Divisional Officer, Coimbatore North, Coimbatore District/the second respondent the Sub Collector, Coimbatore North, Coimbatore District, and it is only a recommendation in nature and it is not an order, which can be challenged by way of a writ petition.

7. Hence, the recommendation of the third respondent the Tahsildar, Coimbatore North, Coimbatore District to the Revenue Divisional Officer, Coimbatore North, Coimbatore District/the second respondent the Sub Collector, Coimbatore North, Coimbatore District, shall be kept in abeyance till the disposal of the suit.



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8. In view of the above submission made by the learned counsel appearing for the petitioners, the II Additional District Munsif Court, Coimbatore is directed to dispose O.S.No.1555 of 2017 as expeditiously as possible, preferably, within a period of six months from the date of receipt of a copy of this order.

9. This Writ Petition is disposed of with the above observations and directions. No costs. Connected Writ Miscellaneous Petition is closed.

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Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No

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Note:

Registry is directed to send a copy of this order to the learned II Additional District Munsif, Coimbatore.



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To
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Coimbatore, Coimbatore District.
- 2.The Sub-Collector,
Coimbatore North,
Coimbatore District.
- 3.The Tashildar,
Coimbatore North,
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