



W.P(MD)No.10351 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.08.2024

CORAM

THE HONOURABLE Ms. JUSTICE P.T.ASHA

W.P(MD)No.10351 of 2024

and

W.M.P(MD)Nos.9323, 9324 & 14147 of 2024

1.Annakunju

2.C.Nagaraj

3.T.Suriya Dheepan

4.P.Balamurugan

... Petitioners

Vs.

1.The Revenue Divisional Officer,
Musiri,
Thiruchirappalli District.

2.The Tahsildar,
Lalgudi Taluk,
Thiruchirappalli District.

3.V.Chinnammal

4.V.Velmurugan

5.G.Anbalagan

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Declaration, declaring that all mutation of revenue records to the name of respondents 3 and 4 and their ancestors, relating to the property of lands in Old S.No.13/2, New S.No.11/2, S.Kannanoor Village [West], Manachanallur Taluk, Thiruchirappalli District, measuring 0.97.50 hectares viz 2.60 acres, as illegal and violative of natural justice and consequently direct the respondents 1 and 2 to restore the revenue records to the name of 16 persons including petitioners 1 and 2 as it stood originally.

For Petitioners : Mr.V.R.Shanmuganathan

For R-1 & R-2 : Mr.B.Saravanan
Additional Government Pleader

For R-3 to R-5 : Mr.S.K.Mani

ORDER

The petitioner seeks the issue of writ of declaration declaring that the mutation of revenue records in the name of respondents 3 and 4 and their ancestors relating to the properties situate in old S.No.13/2 and new S.No.11/2, S.Kannanoor Village [West], Manachanallur Taluk, Thiruchirappalli District, measuring 0.97.50 hectares [2.60 acres] is illegal and violative of natural justice and to consequently, direct the respondents 1 and 2 to restore the revenue



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records to the name of 16 persons including the petitioners 1 and 2 as it stood originally.

2. To appreciate the relief claimed by the petitioners, it would be necessary to briefly allude to the facts as set out in the affidavit filed in support of the writ petition. The petitioners would submit that the aforesaid lands stood in the name of 16 persons which included the first and second petitioners as well and the fathers of petitioners 3 and 4, namely, Thiagarajan and Periyasamy respectively. The petitioners would submit that the lands in question are inam punja lands and personal service inam lands standing in the name of the ancestors of these 16 persons. The patta originally stood in the name of all the 16 of them.

3. While so, it appears that one Vellaichamy, the husband of the third respondent and father of the fourth respondent had filed a suit in O.S.No.70 of 1996 on the file of the District Munsif Court, Lalgudi, which was originally filed before the Vacation Civil Judge, Trichy in O.S.No.895 of 1995. This suit was filed only against the official respondents, namely, respondents 1 and 2 herein and the District Collector. In the aforesaid suit, the said Vellaichamy had



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set out that the property belonged to one Nagamuthu Muthiriar and he had executed a Will, dated 14.02.1969 bequeathing the lands to his foster son. The suit was one for a declaration of title.

4. In the written statement filed to the above suit, the official respondents, namely, the Tahsildar had filed a written statement, in which it has been clearly and categorically stated that the patta stands in the name of 16 persons and that neither the plaintiff nor Nagamuthu had any right over the same. It was further contended that in 1986, corrections were carried in the revenue records entering the name of Nagamuthu, which was a wrong entry and the plaintiffs taken advantage of. Thereafter, the revenue records in the name of Nagamuthu was cancelled. It appears that, thereafter, the official respondents had not participated in the proceedings and allowed the suit to be decreed *ex parte* on 08.09.1997. The petitioners would contend that the decree obtained in O.S.No.70 of 1996 is one which is writ large with fraud. Despite coming to know that the patta stood in the name of 16 persons through the written statement of the official respondents, the plaintiffs therein had not taken steps to implead these 16 persons. The judgment was also a non speaking one. On the basis of this fraudulently obtained decree, the aforesaid person has managed to



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get the revenue entries mutated in the names by cancelling the name of 16 persons. The petitioners would submit that they had neither been put on notice in the suit nor in the patta cancellation proceedings. It is only when the fifth respondent had attempted to disturb the petitioners' possession by reason of registered agreement of sale, dated 26.08.2022 entered into between him and the fifth respondent that they had come to know about the cancellation of patta in their name. The request to the Tahsildar yielded no result and therefore, they have come forward with the writ in question.

5. Along with the writ petition, the petitioners have also filed a copy of the plaint in O.S.No.895 of 1995 later O.S.No.70 of 1996, District Munsif Court, Lalgudi. A reading of this plaint would show that, the plaintiffs therein, namely, the husband of the third respondent and father of the fourth respondent, Vellaichamy were claiming title to the property through adverse possession. In the said suit, they have pleaded that the official respondents had denied their title to the suit property and they have also pleaded that their predecessor in title had obtained right to the property through patta. This suit has been decreed by a non speaking one line order, which is extracted as follows:



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"P.W.1 examined. Exhibits A.1 to A.11 marked.

Claim proved. Suit is decreed as prayed for. No costs."

6. Another fact that has to be taken note of is that, in their written statement to this suit, the respondents 2 and 3 herein has clearly stated that patta stands in the name of 16 persons and that the property belongs to them. When the names of the 16 persons including the petitioners had been deleted, no prior notice has been issued to them. In these circumstances, though in the writ petition, the petitioners have asked for a declaration as well as a consequential prayer of restoring their names into the revenue records, it would suffice that the order granting patta in the names of the respondents 3 and 4 be set aside as the mutation done in their names is without following the principles of natural justice.

7. The learned Counsel appearing for the respondents 3 to 5 would primarily rest his arguments on the question of delay and also on the point that the suit in O.S.No.70 of 1996 had been decreed in favour of Vellaichamy and steps have not been taken to set aside the same. He would further submit that the petitioners had themselves filed a suit, which was dismissed.



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8. Heard the learned Counsels on either side.

9. The writ petition stands partly allowed and the declaration as sought for is granted and the order granting patta to Velaichamy and his legal heirs, respondents 3 and 4 has to be set aside and accordingly, it is set aside. The second respondent shall therefore, issue notice to the petitioners, respondents 3 and 4 and all other persons interested in the lands in question, that is; old S.No. 13/2, new S.No.11/2, S.Kannanoor Village [West], Manachanallur Taluk, Thiruchirappalli District, measuring 0.97.50 hectares viz 2.60 acres for a hearing on a fixed date and after affording opportunity to all the parties to make their submissions and submit the documents vide personal hearing, pass orders within a period of twelve (12) weeks from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions stand closed.

05.08.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes



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BTR
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To

- 1.The Revenue Divisional Officer,
Musiri,
Thiruchirappalli District.
- 2.The Tahsildar,
Lalgudi Taluk,
Thiruchirappalli District.



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P.T.ASHA, J.

BTR

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