



W.P.(MD) No.16202 of 2015

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.09.2024

CORAM

THE HONOURABLE Ms.JUSTICE P.T.ASHA

W.P.(MD) No.16202 of 2015

1.S.Thirumurugan

2.S.Umarani

3.S.Balamurugan

4.S.Vasanth Samyuktha

5.T.Udyarkovil Guna

... Petitioners

/vs./

1.The District Collector,
Thanjavur.

2.The Revenue Divisional Officer,
Thanjavur.

3.The Tahsildar,
Thanjavur.

4.The Village Administrative Officer,
76, Pinnainallur Mariamman Kovil,
Thanjavur Taluk,



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Thanjavur District.

5.Samy Ammal

6.The District Revenue Officer,
Thanjavur District,
Thanjavur.

*(R6 is impleaded vide Court
order dated 21.08.2024)*

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the 2nd respondent by this proceedings dated 15.05.2010 in Na.Ka.2425/10 A5 and the proceedings of the District Revenue Officer, Thanjavur, proposed 6th respondent dated 09.04.2015 in Tha.Pa.U. (2)01/2011 and quash the same and consequently direct the 3rd respondent to delete the 5th respondent's name in Patta No.647.

(cause title has been amended vide order dated 10.09.2024)

For Petitioner : Mr.V.Sasikumar

For R1 to R3 : Mr.B.Saravanan
Additional Government Pleader

For R5 : Mr.G.Mathavan



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ORDER

Aggrieved by the fact that the Revenue Officials, namely the respondents 1 to 4, who had granted patta to the fifth respondent in respect of the portion of the property in S.No.171/14, measuring an extent of 11.5 cents, which is sought to be cancelled and which was not being considered by them, the writ petitioners have moved this Writ Petition for a Mandamus.

2. The petitioners would submit that 86 acres of land at Pinninallur Mariamman Kovil in Thanjavur Taluk were declared as Natham Poramboke in the revenue notification and pattas were issued to the occupants on 31.01.1991 after wide advertisement and publicity. The patta in respect of the Natham land in S.No.171/14 measuring an extent of 0.21.06 ares was granted to the occupants, S.Srinivasan and S.Veeraiyan, S/o.Suyamprakasam, who had been enjoying the property for over 30 years. There was no objection to the same.

3. From 1991 to till date, the said Srinivasan, Veeraiyan and their legal heirs have been enjoying and possessing the said property. The issuance of patta was also not objected to. The said Srinivasan and Veeraiyan had got a joint patta



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in respect of the said property and thereafter, under an oral partition, Srinivasan was allotted the western half of the property and Veeraiyan was allotted eastern half. The said Srinivasan died on 12.06.2004 and his legal representatives, namely his wife, Uma Rani, sons, S.Balamurugan and Thirumurugan, daughters, S.Vasanth and Samuktha and father, S.Suyam Prakasam, were thereafter in enjoyment of the same. Srinivasan's father passed away at his ripe old age of 92 on 03.07.2008. The revenue records continue to remain in the names of Srinivasan and Veeraiyan in respect of S.No.171/14. The property tax is also assessed in their names. The Village Administrative Officer had issued a certificate to this effect.

4. While so, the fifth petitioner had purchased a portion of the property from the legal heirs of Srinivasan. He had purchased a site measuring an extent of 2100 sq.ft., on 21.05.2007. Joint patta was also issued to him on 17.03.2008. The fifth petitioner had put up a construction in the site and is also assessed to property tax. That apart, he has also got the electricity connection and water connection from the Electricity Board and Local Authorities respectively.



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5. This being the case, it appears that the Tahsildar of Tanjore Taluk and the Village Administrative Officer, Pinnainallur Mariamman Kovil Village gave a report to the Revenue Divisional Officer, Thanjavur that the property comprised in S.No.171/14 is in possession and enjoyment of the fifth respondent, Samy Ammal and recommended that the patta be issued to her. The said Samy Ammal is not a resident of Pinnainallur Mariamman Kovil Village, but belongs to Pulimangalam Village in Papanasam Town, where she has been living since 1950. All her official records show her place as Pulimangalam.

6. The grievance of the petitioners is that Samy ammal has obtained the patta and got the other revenue records mutated on the basis that she is the wife of late.Pitchai Mudaliar. The petitioners would state that Pitchai Mudaliar is the maternal uncle of Samy ammal and he was suffering from incurable skin disease and died as bachelor in January, 2005. The petitioners would submit that Pitchai Mudaliar during his life time had not objected to the grant of patta in the names of Srinivasan and Veeraiyan in respect of S.No.171/14.



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7. The petitioners challenged the order of the Tahsildar in issuing the legal heirship certificate to Samy ammal as if she was the wife of late.Pitchai Mudaliar by filing an appeal before the District Collector of Tanjavur, which is still pending and when the said application is pending, the Tahsildar has issued patta to Samy ammal in respect of the portion of S.No.171/14 measuring an extent of 11.5 cents.

8. The petitioners challenged this order before the Revenue Divisional Officer, Tanjavur, seeking for cancellation of the patta. The appeal was dismissed and the order of the Tahsildar was reiterated. A Revision was also filed before the District Revenue Officer, Tanjavur, who also repeated the order of the Revenue Divisional Officer. The petitioners had thereafter preferred a Revision before the Land Commissioner, Chennai and the Land Commissioner had not disposed of the petitioners' petition all these years. Taking advantage of this illegal issued patta, the fifth respondent is attempting to sell the property. Hence, the petitioners have filed this Writ Petition for a Mandamus.

9. The sixth respondent, who had been impleaded, had purchased the property from the said Samy ammal under a registered sale deed dated



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25.01.2012. He would submit that the property in question originally belonged to one Kannusamy Mudaliar, the father of Pitchi's Mudaliar under a partition deed of the year 1927. The sixth respondent would further submit that the petitioners herein had filed a suit for declaration in O.S.No.247 of 2015 on the file of the Principal District Munsif, Tanjavur, which was dismissed. Further, the petitioners' appeal to the Revenue Divisional Officer, Tanjavur seeking to cancel the patta issued in the name of Samy ammal was dismissed and the Revision to the District Revenue Officer was dismissed and the further Revision to the Land Commissioner, Chennai was also closed.

10. The sixth respondent would submit that the challenge to the partition deed of the year 1927 was on the ground that the schedule did not contain the survey number. However, the survey number which is contained therein clearly matches the boundaries of the petition mentioned property. A report to this effect was also given by the Revenue Officials and only thereafter, patta was transferred.

11. The sixth respondent would submit that after the purchase, he has been making a petition to the respondents to issue patta in his name, which has not



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been granted. The main crux of the argument of the petitioners is that the said Pitchi Mudaliar was not the husband of Sami ammal and that the property in question was not the subject matter of the earlier partition deed. However, a perusal of the Thasildar's report dated 15.05.2010 would show that the property in question in S.No.171/14 was the subject matter of the partition in the family of Pitchai Mudaliar. The four boundaries described therein tally with the four boundaries of the property now the subject matter of the writ petition and the persons claiming under the earlier owners are shown to be the owners of the adjoining lands. Sami ammal was the wife of the said Pitchai Mudaliar and the documents clearly show that she is the owner of a particular portion of the property comprised in S.No.171/14.

12. Further, in the suit O.S.No.247/2015, the fifth petitioner and another sought for declaring the legal heirship certificate showing Sami ammal as the legal representative of the deceased Pitchai Mudaliar to be invalid. The learned Principal District Munsif, Tanjavur, after contest dismissed the suit. The learned Judge had observed that the marriage between the fourth respondent and the said Pitchai Mudaliar, who is none else than her maternal uncle, had taken place much



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prior to the birth of the plaintiff and that the legal heirship certificate after the death of Pitchai Mudaliar in favour of the fourth defendant was granted only after verification. The learned Judge had held that the plaintiffs had not miserably failed to prove that Sami ammal, the fifth respondent was not the wife of Pitchai Mudaliar.

13. In the light of the above, the request for cancelling the joint patta granted to Sami ammal cannot be countenanced as her husband, Pitchai Mudaliar had a right to the said property and therefore, the petitioner is not entitled for a Mandamus as sought for. Consequently, the Writ Petition stands dismissed. No costs.

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

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