

Chockkappan and 2 ors. Vs. the State of Tamil Nadu Rep. by the Special Commissioner and Commissioner Land Administration and 2 ors.

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SooperKanoon Citation : sooperkanoon.com/832357

Court : Chennai

Decided On : Dec-09-2003

Reported in : 2004(1)CTC136

Judge : D. Murugesan, J.

Acts : [Constitution of India](#) - Article 226

Appeal No. : W.P. No. 32996 of 2003 and W.P.M.P. No. 39936 of 2003

Appellant : Chockkappan and 2 ors.

Respondent : The State of Tamil Nadu Rep. by the Special Commissioner and Commissioner Land Administration and 2

Advocate for Def. : S.V. Duraisolaimalai, Govt. Adv. for Respondents 1 and 2

Advocate for Pet/Ap. : K. Ravi Anantha Padmanabban, Adv.

Disposition : Appeal allowed

Judgement :

ORDER

D. Murugesan, J.

1. Though W.P.M.P., seeking for stay is listed today, in view of limited question involved in the Writ Petition, by consent of both parties, the main Writ Petition itself is taken up for final disposal.

2. The petitioners are co-owners of the property in S.F.No. 13/5 of Kultukuthukai Karisal Kulam Village, Kariapatty Taluk, Virudhunagar District, measuring about 2 acres. The petitioners were granted patta in the year 1984 during ryotwari settlement. While that be so, the 3rd respondent made an application for inclusion of her name in the said patta. By order dated 27.10.1995 the name of the 3rd respondent also included in the patta. This was questioned by the petitioners on 3.9.1997 before the Tahsildar, Aruppukottai. The petitioners were informed by the Tahsildar, Aruppukottai by order dated 25.10.1995, that if the petitioners are aggrieved by the order dated 27.10.1995, they can prefer appeal before the Revenue Divisional Officer. The appeal preferred by the petitioners was dismissed by the Revenue Divisional Officer by order dated 5.4.1999. The Review Petition filed by the petitioners before the District Revenue Officer was also dismissed by order dated 19.11.1999 with a slight modification by directing the Tahsildar to grant one acre to the 3rd respondent and the remaining one acre to the petitioners. Then the land was sub-divided. The further Revision to the Government was also dismissed by order dated 6.3.2003. Hence the present Writ Petition by the petitioners.

3. The grievance of the petitioners is that when the joint patta was issued in favour of the petitioners as early as on 16.7.1984 the inclusion of the name of the 3rd respondent was made without an opportunity to the petitioners. Moreover, the Tahsildar and the other authorities have gone into the question of title of the 3rd respondent over the land and such entitlement is not available to the Revenue Officials to decide the title of the property. Inclusion of the name of the 3rd respondent in the patta is on the basis that the lands were purchased by the 3rd respondent from the erstwhile owner and the 3rd respondent was also in enjoyment of the land for 12 years.

4. The learned counsel for the respondents on the other hand, brought to my notice the judgment of a Division Bench of this Court *Kuppuswami Nainar v. The*

District Revenue Officer , to contend that in the matter of patta, this Court cannot gone into the question of title and only the Civil Court which has to adjudicate the question as to whether the person claiming patta is the title holder of the land. The Division Bench while considering the Standing Orders of the Board of Revenue, held that no provision is brought to the notice of the Court, taking away the jurisdiction of the Civil Court to adjudicate upon the question of title relating to immovable property. The Division Bench has also held that the Revenue Officers in a patta proceedings, may express their views on the question of title but such expression of opinion or decision is not conclusive and it is only intended to support their decision for granting patta. Holding so, the Division Bench further held that it is the Civil Court which has to adjudicate the question as to whether the person claiming patta is the title holder of the land.

5. Coming to the facts of the case, it is not in dispute that the petitioners are the co-owners of the land and they were granted joint patta as early as on 16.7.1984, The name of the 3rd respondent was included by the Zonal Tahsildar, Aruppukottai after a period of 11 years i.e., on 27.10.1995 after deciding the title in favour of the 3rd respondent which ought to have been agitated only in the Civil Court. Though the Revenue Officials are empowered to consider the prima facie consideration of the right of the parties for the grant of patta, when the patta stands in the name of a particular person, inclusion of others in the patta is impermissible, that too, on consideration of title by the Revenue Officials. In all fairness, the Zonal Tahsildar, Aruppukottai ought to have directed the 3rd respondent to first establish her title before the Civil Court before any inclusion is made in the patta, as it is not the case of fresh patta but inclusion of 3rd respondent in the patta which already stand in the name of the petitioners. In this context, the impugned order cannot be sustained as the 3rd respondent's name has been included only after the decision rendered by the Revenue Officials regarding the title of the 3rd respondent. Hence, the impugned order is set aside. However, liberty is given to the 3rd respondent to work out her remedy in Civil Court as to her title over the land in question and in the event, the 3rd respondent has obtained a decree in her favour she can make her application for inclusion of her name in the patta. The Writ petition is allowed with the above observation. No costs. Consequently, W.P.M.P. No. 39936/2003 is closed.

