

IN THE HIGH COURT OF JUDICATURE AT MADRAS

CORAM

DATED : 11.02.2015

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.9597 of 2014

V.Rajeswari

.. Petitioner

Vs.

1. The District Collector,  
Coimbatore District,  
Coimbatore.

2. The Tahsildar,  
Sulur Taluk,  
Sulur  
Coimbatore District.

3. Mrs.B.Saradhamani

.. Respondents

Prayer : Writ Petition has been filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus to call for the records and release the impugned order dated 06.03.2013 bearing Ref.No.Mu.Mu./RDR/198/2012 on the file of the second respondent and quash the same and consequently direct the respondents herein to survey and subdivide the petitioner's portion of land compromised in Survey No.458/1C ad measuring 3.95.0 Hectacres of land situated in Paduvampally Post, Sulur Taluk, Coimbatore District and issue separate patta to the petitioner.

For the Petitioner

: Mr. Ilanthirayan for  
Mr.Sai Bharath and Ilan

For the Respondents 1 &2

: Mr.Jayaprakash Narayanan  
Special Government Advocate

For the Respondent - 3

: Mr.V.Sivakumar

ORDER

The petitioner has filed this writ petition challenging the impugned order dated 06.03.2013 wherein, the request of the petitioner to sub divide her portion of land and issue separate patta was rejected on the ground that the petitioner's sister, the third respondent herein has given objection for sub division of the property and for issuance of patta.

2. It is seen that the claim for separate patta, sub division is based on a Deed of Partition, dated 08.04.1992 and Release Deed, dated 15.12.1998 executed in favour of the petitioner by her mother. Therefore, the petitioner would state that no objection could be raised by the third respondent.

3. In any event, since the writ petition is disposed of without filing of counter affidavit by the second respondent, the merits of the petition is left for adjudication by the authority concerned.

4. However, it is seen that the second respondent has passed the impugned order stating that since objection was raised by the third respondent, patta was not given. The second respondent, being an authority to issue patta, is bound to conduct enquiry as to whether the dispute raised by the objector / third respondent is a valid objection. If there is no title, obviously, it cannot be adjudicated. However without conducting enquiry, merely on objection raised by the third respondent, the application should not be returned.

5. Accordingly, writ petition is allowed, the impugned order is set aside, and the Petitioner is directed to file fresh application along with a copy of this order. On receipt of the same, the second respondent shall issue notice to the petitioner and the third respondent and conduct enquiry and pass orders on merits in accordance with law. No costs.

Sd/-  
Asst.Registrar (Records)

/true copy/

Sub Asst. Registrar

adl

To

1. The District Collector,  
Coimbatore District, Coimbatore.

2. The Tahsildar,  
Sulur Taluk, Sulur  
Coimbatore District.

1 cc to Government Pleader, sR. 7561

1 cc to M/s. Bharath & Ilan, Advocate, sr. 7536

W.P.No.9597 of 2014

MP (CO)

kk 18/3