



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.04.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR. JUSTICE S.S.SUNDAR

W.A. (MD) No.1023 of 2014
and
M.P. (MD) Nos.1 and 2 of 2014

P.A.Clement Raja .. Appellant

Vs.

1.The District Revenue Officer,
Theni District.

2.The Revenue Divisinal Officer,
Periyakulam, Theni District.

3.The Tahsildar,
Andipatti Taluk,
Theni District.

4.Mrs.A.Arokiya Thai .. Respondents

PRAYER: Writ Appeal is filed under Clause XV of Letters of Patent, against the common order dated 14.07.2014 made in W.P.(MD) No.2040 of 2014.

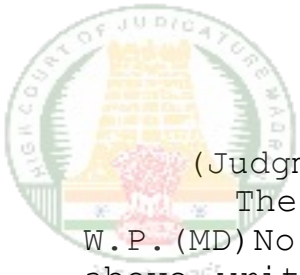
Prayer in WP(MD). 2040/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari calling for the records pertaining to the order of the 1st Respondent in Na.Ka. No. 39799/2012/ D4 dated 12.08.2013 and quash the same and thus render justice.

For Appellant : Mr.S.C.Herold Singh

For R1 to R3 : Mr.S.Kumar
Additional Government Pleader

For R4 : Mr.R.Anand



JUDGMENT

(Judgment of this Court was delivered by S.S.SUNDAR, J.)

The above appeal has been filed against the order passed in W.P.(MD)No.2040 of 2014, dated 14.07.2014. The appellant filed the above writ petition for issuance of writ of Certiorari, to quash the order of the first respondent in Na.Ka.No.39799/2012/D4, dated 12.08.2013.

2.The appellant while challenging the order passed by the first respondent, has admitted that the property originally belongs to his father Mr.P.A.Antony Muthu Udaiyar and on 10.12.1986, his father had executed a Will and the same was registered in the office of the Sub-Registrar, Periyakulam. It was his case that under the Will, he bequeathed all the property in favour of his four sons reserving life estate in favour of his mother viz., Anthoniammal @ Sakaraiammal.

3.The case of the appellant is that his four brothers executed a release deed in favour of the appellant on 02.06.1994 and that he became the absolute owner of the entire property and enjoying the same as real owner. It is also admitted in the affidavit filed by him in support of this writ petition that the fourth respondent is the appellant's sister and she that had filed the suit in O.S.No.2 of 2000 on the file of the District Munsif Court, Andipatti, against the appellant and his brothers seeking for a decree of declaration and possession in respect of the property in dispute.

4.The contention of the appellant is that based on the ex-parte decree obtained in O.S.No.2 of 2000, the fourth respondent approached the Revenue authorities and included her name in the patta. As the ex-parte decree obtained in the suit was later set aside, the inclusion of the fourth respondent's name in the patta is illegal and hence, the order of the first respondent is irregular and this Court in exercising of its Jurisdiction under Article 226 of the Constitution of India, should set aside and quash the order of the first respondent.

5.Having regard to the admitted facts that the rights of parties is likely to be decided one way or other in the pending civil suit, order passed by the first respondent regarding entries of names in the revenue records is not going to affect the rights of the parties.

6.The learned single Judge has protected the rights of the parties by specifically observing that the order passed by the first respondent is not binding on the Civil Court and that the Civil Court will decide the matter based on oral and documentary evidence, uninfluenced by the decision of the first respondent, ~~and hence the order of the first respondent is not binding on the Civil Court~~ leading to mutation of revenue records. Even under Section 14 of Patta Pass Book Act, the Revenue authorities are under legal obligation to change the revenue records in accordance



with the decree that may be passed in Civil Suit declaring the rights of the parties. Hence, the order dismissing the writ petition with the observation indicated above is perfectly correct.

7. In the result, we find no merit in the present appeal and the same is dismissed. However, there is no order as to costs. Consequently, connected Miscellaneous Petitions are also dismissed.

Sd/-
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

1. The District Revenue Officer,
Theni District.

2. The Revenue Divisinal Officer,
Periyakulam, Theni District.

3. The Tahsildar,
Andipatti Taluk,
Theni District.

+1cc to Mr.S.C.Herold Singh, Advocate SR.No.22263

+1cc to Mr.R.Anand, Advocate SR.No.22412

+1cc to special Government Pleader SR.No22941

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