



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.10.2016

CORAM:

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THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.(MD) No.6319 of 2015

and

M.P.(MD) No.1 of 2015

K.Subburathinam

... Petitioner

-vs-

1.The District Collector
Karur District

2.The District Revenue Officer
Karur

3.The Revenue Divisional Officer
Karur

4.The Tahsildar
Manmangalam Taluk
Karur District

5.The Regional Deputy Tahsildar
Karur

6.The Village Administrative Officer
Kuppuchipalayam Village
Karur Taluk, Karur District

7.S.Periyasamy

8.P.Ramasamy

9.P.Chidambaram

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus calling for the records relating to the impugned order of the third respondent in Na.Ka.No.A2/986/2014, dated 26.02.2015, quash the same and consequently direct the third respondent herein to take up the appeal of the petitioner, dated 07.07.2014, and dispose of the same on merits.



For Petitioner : Mr.H.Thayumanaswamy

For Respondents : Mr.V.Muruganandam, A.G.P., for R1 to R6
Mr.R.Murali
for Mr.K.Govindarajan for R7 to R9

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O R D E R

The prayer in the writ petition is for issuance of a writ of certiorarified mandamus to quash the impugned order, dated 26.02.2015, passed in Na.Ka.No.A2/986/2014, by the third respondent and consequently to direct him to take up the appeal of the petitioner, dated 07.07.2014, and dispose of the same on merits.

2. The petitioner, in the affidavit filed in support of the writ petition, would submit that one Perianna Gounder was the original owner of the property in dispute and the said Perianna Gounder married one Chellammal and after her demise, he married one Pappayee Ammal as his second wife, through the said Pappayee Ammal, Perianna Gounder got a son, namely, Ammaiappan. After the demise of Perianna Gounder, his wife Pappayee Ammal inherited the property in dispute, and her son Ammaiappan married one Kalaivani, and the said Ammaiappan died issueless. Thereafter, his wife Kalaivani got second marriage. Since she had no issue through her first husband Ammaiappan, she relinquished all her rights and interest over the property in dispute in favour of Pappayee Ammal. By virtue of the same, Pappayee Ammal became the absolute owner of the property in dispute and got Patta in her name. Subsequently, she executed a Will, dated 29.09.2011, in favour of the petitioner herein bequeathing the property in dispute and other properties in his favour. When that being the position, the respondents 7 to 9 fraudulently in collusion with the fifth respondent included their names in the Patta issued in favour of Pappayee Ammal as joint Pattadars claiming that they are the legal heirs of Perianna Gounder through his first wife Chellammal. On coming to know about the same, Pappayee Ammal gave an objection to the Tahsildar, Karur / fourth respondent. Based on the said joint Patta, the ninth respondent filed a partition suit, in O.S.No.290 of 2012, before the learned Additional Subordinate Judge, Karur, against Pappayee Ammal and others. Subsequently, on 22.02.2013, Pappayee Ammal died, leaving the petitioner as her legatee and successor to inherit the properties executed under the Will, dated 29.09.2011. Thereafter, on 07.07.2014, petitioner preferred an appeal before the Revenue Divisional Officer, Karur / third respondent to cancel the joint Patta issued in favour of the respondents 7 to 9, but the third respondent, by the impugned order, dated 26.02.2015, rejected his claim and directed the parties to approach the Civil Court for appropriate relief, since civil suit is pending in respect of the title over the property in dispute and aggrieved by the same, petitioner has filed this writ petition.



3. The ninth respondent, in his counter affidavit, would submit that his mother one Malaiammal born to Perianna Gounder through his first wife Chellammal, and in the earlier round of litigation, she was shown as the legal heir of the deceased Perianna Gounder, and hence Pappayee Ammal and Malaiammal, born through the first wife, were the legal heirs of the deceased Perianna Gounder, the respondents 7 to 9, who are the husband and sons of Malaiammal, are entitled to get share in the property in dispute, and on 22.11.2012, the respondents 7 and 8 released their right and interest over the property in dispute in favour of the ninth respondent, thereafter, he filed a partition suit, in O.S.No.290 of 2012, against Pappayee Ammal and others, before the learned Additional Subordinate Judge, Karur, and the same is pending disposal and in the said suit, the writ petitioner was impleaded as a party defendant based on the Will, dated 29.09.2011. Challenging the same, the ninth respondent filed a civil revision petition, in C.R.P.(PD) (MD) No.1372 of 2015, before this Court and this Court disposed of the civil revision petition by observing that the writ petitioner has to prove the genuineness of the Will in accordance with law and therefore, he prayed that till the disposal of the partition suit, the relief sought for by the petitioner should be deferred.

4. I have heard Mr.H.Thayumanaswamy, learned counsel for the petitioner, Mr.V.Muruganandam, learned Additional Government Pleader for the respondents 1 to 6 and Mr.R.Murali, learned counsel representing Mr.K.Govindarajan, learned counsel on record the respondents 7 to 9 and carefully considered the rival submissions and perused the materials produced.

5. Admittedly, there is a dispute regarding inheritance of the properties of Perianna Gounder and a suit is pending before the Civil Court. The petitioner claiming right over the property in dispute by means of a Will executed in his favour by Pappayee Ammal and as per the order passed by this Court in C.R.P.(PD) (MD) No.1372 of 2015, the petitioner has to prove the genuineness of the Will before the Civil Court and in such circumstances, when there is a serious dispute with regard to the right and title over the property in dispute, the Revenue Authorities cannot take any decision regarding the title over the properties in the petitioner's appeal, dated 07.07.2014, filed for cancellation of joint Patta issued in favour of the respondents 7 to 9, hence, this Court is of the considered view that the impugned order, passed by the third respondent, does not suffer from any infirmity and it does not warrant interference of this Court.

6. In the result, the writ petition fails and it is dismissed. Since the civil suit is pending from 2012, the learned Additional Subordinate Judge, Karur, is directed to dispose of the said suit on merit as early as possible preferably within a period of six



months from the date of receipt of a copy of this order, without any reference to the joint Patta granted in favour of the respondents 7 to 9.

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/True copy/

Sd/-
Assistant Registrar(crl)

Sub Assistant Registrar

To:

- 1.The Additional Subordinate Judge, Karur
- 2.The District Collector,
Karur District.
- 3.The District Revenue Officer,
Karur.
- 4.The Revenue Divisional Officer,
Karur.
- 5.The Tahsildar,
Manmangalam Taluk,
Karur District.
- 6.The Regional Deputy Tahsildar,
Karur.
- 7.The Village Administrative Officer,
Kuppuchipalayam Village,
Karur Taluk, Karur District.

+1cc to Mr.H.Thayumanaswamy, Advocate Sr.No.59127
+1cc to special Government Pleader SR.no.59361
+1cc to Mr.K.Govindarajan, Advocate Sr.No.58515

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and
M.P. (MD) No.1 of 2015
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