



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED 25.07.2016**

CORAM

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THE HONOURABLE MR.JUSTICE M.VENUGOPAL

W.P (MD) No.12995 of 2016

S.Gurusamy Nadar

..Petitioner

Vs

1.The Sub-Collector,
Kovilpatti, Tuticorin District.

2.The Tahsildar,
Ottapidaram Taluk,
Tuticorin District.

3.Anandammal

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the first respondent to dispose of the appeal filed by the Petitioner on 14.10.2015 on merits and in accordance with law.

For Petitioner

:M/s.S.Kadarkarai

For Respondents

:Mr.J.Gunaseelan Muthiah
Govt.Advocate

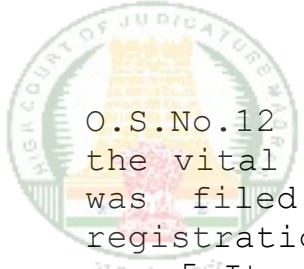
ORDER

Heard the Learned Counsel for the Petitioner and the learned Government Advocate for the Respondents No.1 and 2.

2.To avoid an avoidable delay, notice to the Third Respondent is dispensed with, in the interest of justice.

3.According to the Petitioner, his father Shanmuga Nadar expired on 2.3.1976 and thereupon, the properties in question devolved on him and his brother Balagurusamy etc., and they enjoyed the properties jointly till the same was partitioned by means of registered Partition Deed, dated 22.09.2979. Since then, they have been enjoying their respective shares in the property without any hindrance by anybody-else. The Petitioner had also obtained separate patta in respect of his share in the properties in Patta No.130.

4.While that be the facts situation, one Anandammal/Third Respondent/Third party suddenly surfaced claiming to be the wife of Shanmuga Nadar, with an ulterior motive to grab the Petitioner's lands and by joining hands with the Petitioner's brother, filed a suit for partition against the Petitioner and some other persons before the First Additional District Court, Tuticorin in



O.S.No.12 of 2009. In fact, his brother had totally suppressed the vital facts regarding the decree in O.S.No.66 of 1971, which was filed by both of them and also about the subsequent registration of the Partition Deed, dated 22.09.1979.

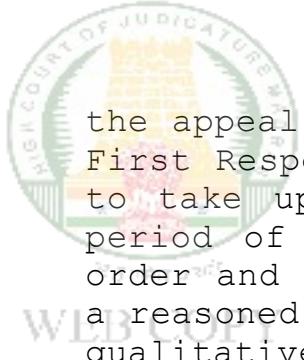
5.It comes to be known that as against the Preliminary Decree passed in O.S.No.12 of 2009 by the Trial Court, an appeal in A.S. (MD)No.174 of 2011 was filed by the Petitioner before this Court and obtained an order of interim stay against the passing of Final Decree Proceedings. Till date, the order of interim stay is in force and binding on all the parties to the appeal. Suppressing the subsistence of an order of interim stay, the Third Respondent insisted and influenced the Second Respondent for granting of patta in her favour by citing the decree passed in O.S.No.12 of 2009, the operation of which was stayed by this Court in A.S.(MD) No.174 of 2011. As a matter of fact, the second Respondent/The Tahsildar, Ottapidaram Taluk, Tuticorin District in connivance with the Third Respondent had illegally included the name of the Third Respondent in the revenue records and issued a joint patta No.130, which is totally illegal and against Law.

6.The grievance of the Petitioner is that the Second Respondent/The Tahsildar, Ottapidaram Taluk, Tuticorin District, without conducting proper enquiry and looking into the documents such as kist receipts and patta, had erroneously included the name of the Third Respondent in patta No.130, wherein, she had no right or title over the said property. Therefore, it is projected on the side of the Petitioner that the act of the Second Respondent is totally unjust and illegal one.

7.Being aggrieved against the above said order of including the name of the Third Respondent in Patta No.130 passed by the Second Respondent, the Petitioner filed an appeal on 14.10.2015 before the First Respondent/The Sub-Collector, Kovilpatti, Tuticorin District seeking to set aside the illegal order passed by the Second Respondent and to remove the name of the Third Respondent Anandhammal in Patta No.130.

8.At this stage, the Learned Counsel for the Petitioner submits that even after a lapse of one month time, no action was taken on the Appeal preferred by the Petitioner till date and in this regard, the Petitioner had issued a legal notice to the First Respondent on 14.11.2015, calling upon him to dispose of the Appeal, at the earliest point of time. Even after a lapse of five months time from the date of serving of notice, till date there is no sign of the appeal filed by the Petitioner being disposed of. Therefore, the Petitioner was forced to issue a reminder to the legal notice issued to the First Respondent on 10.3.2016. and even after due service of the said reminder on 11.3.106, till date, the First Respondent has not taken any action or steps to dispose of the appeal filed by the Petitioner.

9.In view of the fact that the Petitioner's Appeal, dated 14.10.2015, is still pending on the file of the First Respondent/The Sub-Collector, Kovilpatti, Tuticorin District, at this state, this Court without expressing any opinion on the merits and demerits of



the appeal so preferred by the Petitioner simpliciter, directs the First Respondent/The Sub-Collector, Kovilpatti, Tuticorin District to take up the pending appeal filed by the Petitioner within a period of one week from the date of receipt of a copy of this order and thereafter, to dispose of the same on merits by passing a reasoned speaking order, outlining the process of reasoning in a qualitative and quantitative fashion (of course after providing necessary opportunity to the Petitioner and others concerned, if any by adhering to the principles of natural justice in true letter and spirit) within a period of four weeks thereafter. It is open to the Petitioner to produce copies of all necessary/relevant documents before the First Respondent/The Sub-Collector, Kovilpatti, Tuticorin and who in turn, shall take into consideration of the same at the time of disposal of the appeal preferred by the Petitioner, dated 14.10.2015. The Petitioner is directed to lend his assistance and cooperation to the First Respondent in disposing of the appeal preferred by him at the earliest point of time.

10. With the aforesaid observation(s) and direction(s), the Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar (Records)

/TRUE COPY/

Sub Assistant Registrar

To

1. The Sub-Collector,
Kovilpatti,
Tuticorin District.

2. The Tahsildar,
Ottapidaram Taluk,
Tuticorin District.

+1cc to M/S.S.KADARKARAI, ADVOCATE IN SR.NO. 39070

+1cc to M/S.THE SPECIAL GOVERNMENT PLEADER, SR NO:39145

VSN

JAARK-PV/02.08.2016: 3P:5C

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