



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 12.04.2017

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THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P(MD)No.6598 of 2017

and

W.M.P(MD)Nos.5184 and 5185 of 2017

Sivanammal

..Petitioner

Vs

1.The District Collector,
Madurai District,
Madurai.

2.The Tahsildar,
Thirupparankundram Taluk,
Thirunagar, Madurai - 6.

3.Subbu

.. Respondents.

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the second respondent in Ref.No.D.R.2016/0103/24/008826TR, dated 24.09.2016 and quash the same on the ground that the same is arbitrary, illegal and without any legal basis and without jurisdiction and consequently to direct the second respondent to delete the name of the third respondent from the revenue records pertaining to the property comprised in S.No.570/1A2 measuring an extent of 26.50 Ares of Avaniyapuram Village, Thirupparankundram Taluk, Madurai District.

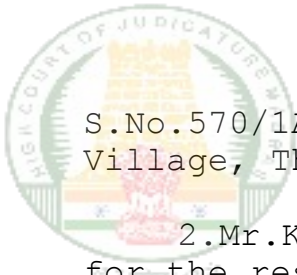
For Petitioner :M/s.R.Aravindan

For Respondents :Mr.K.Mahesh Raja

1 and 2 Government Advocate.

ORDER

The Petitioner approached this Court seeking for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the second respondent in Ref.No.D.R.2016/0103/24/008826TR, dated 24.09.2016 and quash the same on the ground that the same is arbitrary, illegal and without any legal basis and without jurisdiction and consequently to direct the second respondent to delete the name of the third respondent from the revenue records pertaining to the property comprised in



S.No.570/1A2 measuring an extent of 26.50 Ares of Avaniyapuram Village, Thirupparankundram Taluk, Madurai District.

2.Mr.K.Mahesh Raja, learned Government Advocate takes notice for the respondents 1 and 2.

3.By consent of both parties, the main Writ Petition is taken up for disposal, at the admission stage itself.

4.According to the Petitioner, her husband Mr.Muniyandi died leaving behind the Petitioner and his two daughters as surviving legal heirs. The property comprised in S.No.570/1A2(Nanja lands) originally belongs to the Petitioner's mother-in-law and after her demise, the said property has been vested on her three sons including the deceased husband of the Petitioner. Thereafter, partition was effected between three brothers and the property mentioned in the impugned proceedings was allotted to the Petitioner's husband. Subsequently, the Petitioner and his two daughters have become the joint owners of the property and patta has also been issued by the second respondent.

5.According to the Petitioner, as far as the subject-property is concerned, his family has been in exclusive possession and enjoyment of the property for number of years without any interference. While matter stood thus, the third respondent has filed a suit in O.S.No.105 of 2007 before the Additional District Judge(Fast Track Court No.II), Madurai for partition of the property. A preliminary decree was passed in the said suit in favour of the third respondent and as against the same, an appeal was preferred in A.S.No.89 of 2010. However, the appeal was dismissed and the preliminary decree granted by the trial Court was confirmed by order dated 7.9.2010. According to the Petitioner, no final decree has been passed in the suit pending before the trial Court.

6.While so, the second respondent has passed the impugned order in favour of the third respondent as joint Patta-holder for the subject-property. It is the case of the Petitioner that no notice was issued to her and no enquiry was conducted as per the relevant statutory provisions before the impugned proceedings came to be issued. In such view of the matter, the Petitioner is before this Court seeking the relief as stated supra.

7.Heard Mr.R.Aravindan, learned counsel for the Petitioner and Mr.K.Mahesh Raja, learned Government Advocate appearing for the respondents 1 and 2 and perused the materials placed before this Court.

8.From the impugned proceedings, it could be seen that no opportunity has been given to the Petitioner and no enquiry seems to have been conducted by the second respondent while passing the impugned order. In such circumstances, the impugned order cannot be



sustained in law and therefore the same is required to be set aside.

9. In view of the above, the impugned order passed by the second respondent in Ref.No.D.R.2016/0103/24/008826TR, dated 24.09.2016 is set aside and the matter is remanded back to the second respondent for fresh consideration, after giving due opportunity to the Petitioner and others concerned and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order.

10. With the above direction, the Writ Petition is allowed. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-

Assistant Registrar (RTI)

/True copy/

Sub Assistant Registrar

To

1. The District Collector,
Madurai District,
Madurai.

2. The Tahsildar,
Thirupparankundram Taluk,
Thirunagar, Madurai - 6.

+1 CC to THE SPECIAL GOVERNMENT PLEADER, SR No. 52062

VSN

PSM/SV-MMS/SAR4/26.04.2017/3P/4C

W.P (MD) No. 6598 of 2017

and

W.M.P (MD) Nos. 5184 and

5185 of 2017

12.04.2017