

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2018

CORAM:

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.10388 of 2018
and W.M.P.Nos.12357 and 12358 of 2018

G.Latha

... Petitioner

Vs.

1. The District Collector,
Tiruppur District,
Tiruppur.
 2. The District Revenue Officer,
Tiruppur.
 3. The Sub Collector/Revenue Divisional Officer,
Tiruppur,
Tiruppur District.
 4. The Tahsildhar,
Tiruppur North Taluk,
Tiruppur.
 5. The District Surveyor,
Tiruppur District,
Tiruppur.
 6. The Village Administrative Officer,
Thottipalayam Village,
Tiruppur North Taluk
Tiruppur.
 7. Mr.Rokkaraj
 8. Mrs. Lakshmi
- ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 27.11.2017 made in Na.Ka.No.2431/2015/A2 passed by the 3rd respondent and to quash the same and consequently direct the

respondents 1 to 6 include the name of the petitioner in the revenue records including computer chitta, Town Survey Register and other revenue records in respect of the property comprised in Old Survey No.601 and New Survey No.755, Old Survey No.602 and New Survey No.756 situate at New Ward No.46, Royapuram Extension, Tiruppur North Taluk.

For Petitioner : Mr. AR.L.Sundaresan,
Senior Counsel for Mr.C.Prabakaran.

For Respondents : 1. Mr.E.Balamurugan,
Special Government Pleader
for R1 to R6.

2. No appearance for R7 and R8.

ORDER

This writ petition has been filed to call for the records relating to the impugned order dated 27.11.2017 made in Na.Ka.No.2431/2015/A2 passed by the 3rd respondent and to quash the same and consequently direct the respondents 1 to 6 to include the name of the petitioner in the revenue records including computer chitta, Town Survey Register and other revenue records in respect of the property comprised in Old Survey No.601 and New Survey No.755, Old Survey No.602 and New Survey No.756 situate at New Ward No.46, Royapuram Extension, Tiruppur North Taluk.

2. The case of the petitioner is that the properties situated in Survey Nos.755 and 756 in Royapuram extension, Tiruppur North Taluk was originally belonged to Hindu Undivided Joint Family consisting of the petitioner, her mother and her sister. There were disputes regarding the share over the property and O.S.No.326 of 2013 has been filed before the Sub Court, Tiruppur for partition of 1/3rd share over the property.

3. After the preliminary decree for partition, the final decree application in I.A.No.288 of 2014 has been filed. Thereafter, there was an amicable settlement between the parties and a Memorandum of Compromise was entered into between them on 10.04.2014 and the final decree was passed. As per the compromise final decree, the A schedule property was allotted to the writ petitioner and her name was included in the patta in Patta No.10701.

4. While so, 7th and 8th respondents tried to disturb possession of writ petitioner. Hence, O.S.No.373 of 2014 and O.S.No.501 of 2015 were filed before the Sub Court, Tiruppur which are stated to be pending.

5. Even before the finality could be arrived in the suit, 7th and 8th respondents had applied for inclusion of their names in the patta No.10701, as if, they have right over the property. Despite contesting the inclusion of their names, the 3rd respondent had included the names of 7th and 8th respondents as joint pattadhars. While doing so, the name of the petitioner was removed from the Patta No.10701. Hence, the petitioner was aggrieved and filed this writ petition.

6. When there is a dispute with respect to the title, the parties shall be directed to the civil proceedings. In this case, the petitioner has already filed a suit for injunction against the respondents 7 and 8 and they have not established their title except their claim.

7. In the event, if there is a dispute with respect to the title between the parties before issuing the patta, the parties will be directed to go before the Civil Court to resolve the disputes. However, it is the case that 3rd respondent has not only included the names of 7th and 8th respondents, but also removed the existing name of the petitioner, over which, the petitioner is aggrieved. In fact, the learned counsel appearing for the petitioner fairly submitted that he would not insist to remove the names of 7th and 8th respondents, who are included, subject to a share over the title before the Civil Court, as the petitioner is only aggrieved by the removal of her name from Patta no.10701. As the order of the third respondent suffers from the infirmities, the same is set aside and the matter is remitted back to the third respondent for fresh consideration.

8. Accordingly, the impugned order dated 27.11.2017 passed by the third respondent is set aside. The matter is remitted back to the third respondent and he is directed to issue notice to all the parties concerned including the petitioner, 7th and 8th respondents herein and also afford due opportunity of hearing to the petitioner, respondents 7 and 8 herein as well as any of the interested parties, and pass orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

9. With the above directions, this writ petition stands disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

s/d-

Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

To

1. The District Collector,
Tiruppur District,
Tiruppur.
2. The District Revenue Officer,
Tiruppur.
3. The Sub Collector/Revenue Divisional Officer,
Tiruppur,
Tiruppur District.
4. The Tahsildhar,
Tiruppur North Taluk,
Tiruppur.
5. The District Surveyor,
Tiruppur District,
Tiruppur.
6. The Village Administrative Officer,
Thottipalayam Village,
Tiruppur North Taluk
Tiruppur.

+1 CC to Govt. Pleader sr 81351.

+1 CC to Mr.C.Prabakaran, Advocate sr 81562.

W.P.No.10388 of 2018
and W.M.P.Nos.12357
and 12358 of 2018

KJI (CO)
SP(19/12/2018)

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