

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.15832 of 2018 and
W.M.P.No.18829 of 2018

S.Easwaramoorthy

.. Petitioner

Vs.

1.The District Revenue Officer,
Office of the District Collector,
Coimbatore.

2.The Sub Collector,
Office of the Sub Collector,
Pollachi.

3.The Tahsildar,
Pollachi Taluk, Pollachi.

4.S.Mahalingam

5.S.Ramasamy

6.R.Mangayarkarasi

.. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of certiorari calling for the records relating to the impugned proceedings dated 16.04.2018 bearing Ne.Mu.No.18934/2017/E1 made by the 1st respondent, reversing the proceedings dated 18.08.2017 bearing Ne.Mu.No.1034/2016/Aa1 made by the 2nd respondent and to quash the same.

For Petitioner : Mr.R.Nandhakumar

For Respondents: Mrs.P.Rajalakshmi,

Additional Government Pleader (R1 to R3)

ORDER

The present Writ Petition which has been filed challenging the impugned order dated 16.04.2018 is liable to be dismissed at the admission stage itself for the simple reason that the finding given by the 1st respondent confirming the order passed by the 3rd respondent, the Tahsildar, Pollachi and reversing the order passed by the 2nd respondent, the Sub Collector, Pollachi, to sub-divide the land in question, cannot be found fault with.

2.Admittedly, the suit in O.S.No.32 of 2015 filed by the 6th respondent for partition of B, C & D Schedule of properties into 9 equal shares and to allot one share to her is pending.

In the pending suit, the petitioner, along with the respondents 4 & 5 have filed their written statements denying the claims and allegations made by the 6th respondent stating that on 18.09.2013, the 6th respondent had executed a Release Deed in favour of the 4th respondent relinquishing her share in the properties in S.F.No.9/3B, 10, 11/2 & 15 situated at Sandaegoundanpalayam Village, Pollachi.

3.The learned counsel appearing for the petitioner submitted that the Release Deed dated 18.09.2013 executed by the 6th respondent would clearly show that she had extinguished her right to claim over the said properties. Therefore, after the execution of the Release Deed on 18.09.2013, the 6th respondent, with false and frivolous averments, cannot file a Civil Suit in O.S.No.32 of 2015 again seeking for a decree for partition of B, C & D Schedule of properties.

4.Since a Civil suit is pending, this Court is not inclined to entertain the Writ Petition. Hence, the Writ Petition is dismissed. However, it is made clear that the petitioner can work out his remedy in the pending Civil Suit. It is also made clear that the Civil Court can proceed with the suit without being influenced by any of the observations made by this Court. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

va

To

1.The District Revenue Officer,
Office of the District Collectorate,
Coimbatore.

2.The Sub Collector,
Office of the Sub Collector,
Pollachi.

3.The Tahsildar,
Pollachi Taluk, Pollachi.

+ 1 cc to Mr. R. Nandhakumar, Advocate Sr.42212

+ 1 cc to Mr. Government Pleader Sr.42339

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(CS-V)

EU (12/07/2018)

<https://hcservices.ecourts.gov.in/hcservices/>