

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2019

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.33747 of 2019

S.Kuppusamy

.. Petitioner

-vs-

1. The District Collector,
Erode District, Erode.

2. The Revenue Divisional Officer,
Bhavani, Erode District.

3. The Tahsildar,
Anthiyur Taluk,
Erode District.

.. Respondents

Petition under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the respondents to transfer the patta in the name of the petitioner, by considering the Can No.0331034081425 and application No.2018/0103/10/116929 dated 26.11.2018 and the representation of the petitioner dated 04.10.2019.

For Petitioner : Mr.M.Arun

For Respondents : M.Tamilarasan,
Government Advocate

ORDER

Heard Mr.M.Arun, learned counsel for the petitioner and Mr.M.Tamilarasan, learned Government Advocate accepting notice on behalf of the respondents.

2.With consent on either side, this writ petition is taken up for final disposal at the admission stage itself.

3.The petitioner has filed this writ petition to transfer the patta in his name by considering his online application dated 26.11.2018.

4.The petitioner claims right over the property pursuant to a deed of settlement dated 09.04.2012, executed by his mother, Tmt. Chinnammal. The petitioner's brother one Subramani had filed a suit in O.S.No.72 of 2012 on the file of Sub Court, Bhavani seeking for partition including the property which was settled in favour of the petitioner by his mother stating that the property is liable for partition. The petitioner and his mother filed a suit in O.S.No.263 of 2013 on the file of Sub Court, Bhavani for a decree of permanent injunction. The suit for partition was decreed, but the subject property namely, the property which was settled in favour of the petitioner herein, was held to be a separate property of the mother Tmt. Chinnammal and not available for partition. Consequently, the suit for permanent injunction had been decreed in favour of the petitioner and his mother. The appeals filed by the petitioner's brother against the judgment and decree in both the suits in A.S.Nos.15 and 16 of 2017 on the file of IV Additional District Court, Bhavani were dismissed, on 20.02.2018. With these facts, the petitioner has sent a representation stating that patta should be transferred.

5.Mr.M.Tamilarasan, learned Government Advocate appearing on behalf of the respondents, on instructions, submitted that as against the judgment and decree of the lower appellate court, the petitioner's brother Thiru. Subramani has filed second appeals before this Court in S.A.Nos.712 and 713 of 2018 and the same are pending.

6.Since the matter is now pending before this Court, it would be appropriate for the petitioner to move for any interim relief in the pending second appeals and at this juncture, no direction can be issued to the respondents to consider the application for transfer of patta and the same has to be only with the permission of the Court, that too, after hearing the petitioner's brother Thiru. Subramani, who is the appellant in the second appeals.

7.With the above observations, this writ petition stands disposed of. No costs.

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Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

abr

To

1. The District Collector,
Erode District, Erode.
2. The Revenue Divisional Officer,
Bhavani, Erode District.
3. The Tahsildar,
Anthiyur Taluk,
Erode District.

+1cc to Mr.A.Sundaravadhanan, Advocate, S.R.No.100829

+1cc to the Government Pleader, S.R.No.101147

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SSI (CO)
CS/10/01/2020



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