

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2020

CORAM

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.24119 of 2012
and M.P.No.2 of 2012

Revathi Sundaram

...Petitioner

Vs.

1.The District Revenue Officer,
Tirupur.

2.The Revenue Divisional Officer,
Udumalpet, Tirupur District.

3.The Tahsildar,
Udumalpet, Tirupur District.

4.Thangamani

... 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 order of the 3rd respondent dated 27.09.2010 in RDR.No.1135/2010/E1 and quash the same and consequently, direct the respondents 1 to 3 herein to carry out Sub Division in respect of the entire extent of property comprised in SF.No.58 in Krishnapuram Village, Udumalpet Taluk, Tirupur District after giving notice to all the owners, including the petitioner herein as per their respective Sale Deeds.

For Petitioner : M/s.A.L.Gandhimathi

For Respondents

R1 to R3 : MI.Sathish
Additional Government Pleader
R4 : Mr.B.Gopalakrishnan
for Mr.D.Muthuselvam

O R D E R

Heard M/s.A.L.Gandhimathi, learned counsel appearing for the petitioner, Mr.I.Sathish, learned Additional Government Pleader appearing for the respondents 1 to 3 and Mr.B.Gopalakrishnan, learned counsel appearing for the 4th respondent.

2.The petitioner has challenged the order passed by the third respondent dated 27.09.2010, by which the property in S.No.58 has been sub-divided, the petitioner's name has been removed from the Patta and the name of the 4th respondent has been included. Admittedly, before sub-dividing the property and including the name of the 4th respondent in the Patta and removing the name of the petitioner, no notice has been issued to the petitioner and this is sufficient to set aside the impugned order. Further, it is seen that the petitioner has filed an appeal before the first respondent which is still pending. In the meantime, both the petitioner as well as the 4th respondent have filed suits before the District Munsif Court, Udumalpet in O.S.No.97 of 2012 and O.S.No.328 of 2011 respectively. Both the suits are for declaration of title and permanent injunction. The Court is informed that both the suits are being tried together and they are in the trial stage.

3.Considering the fact that the impugned order has been passed without notice to the petitioner, the impugned order is liable to be set aside. Accordingly, the writ petition is allowed, the impugned order is set aside and Patta No.214 as it stood prior to impugned order shall be restored. However, the petitioner cannot take advantage of this order and try to alienate the property nor change his physical features. That apart, both the parties, namely, the petitioner and the 4th respondent shall agitate their rights before the Civil Court which shall be considered based on the oral and documentary evidence filed before the Court and the Court shall not take into consideration the Patta No.214 which was issued by the revenue authorities.

4.In the result, the writ petition is allowed, the impugned order is set aside and the third respondent is directed to restore Patta No.214 as it stood originally and both parties are directed to agitate their respective rights before the Civil Court by leading both oral and documentary evidence. Either of the parties shall not be entitled to refer to the proceedings of the revenue authorities, namely, Patta or any other observations made by the revenue authorities and shall independently

establish their rights, title and interest over the property based on oral and documentary evidence. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

cse

Copy to: The District Revenue Officer,
Dharmapuri.

To

1.The District Revenue Officer,
Tirupur.

2.The Revenue Divisional Officer,
Udumalpet, Tirupur District.

3.The Tahsildar,
Udumalpet, Tirupur District.

+1 CC to M/s.D.Muthu Selvam, Advocate (sr.no.20790)

+1 CC to M/s. AL. Ganthimathi, Advocate (sr.no.20912)

+1 CC to the Government Pleader (sr.no.21169)

सत्यमेव जयते

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CP(CO)
AT(20/05/2020)

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