

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2020

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P.No.27867 of 2012
and M.P.Nos.1 and 2 of 2012

R.Atheeswaran ... Petitioner

Vs.

1.The Sub-Collector,
Pollachi,
Coimbatore District.

2.The Tahsildar,
Pollachi,
Coimbatore District.

3.The Deputy Tahsildar,
Kinathukadavu Zone,
Pollachi,
Coimbatore District.

4.Lakshmi
5.Rukmani

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a writ of certiorari to call for the entire records relating to the impugned order dated 11.07.2012 in Na.Ka.No.1219/2012/A1 passed by the 1st respondent herein and quash the same.

For Petitioner : Mr.M.N.Balakrishnan

For Respondents: Mr.R.S.Selvam for R1 to R3
Government Advocate
Mr.T.Nirmaleswar for R4 & R5

O R D E R

This writ petition has been filed challenging the order dated 11.07.2012 passed by the first respondent whereby the patta issued in favour of the petitioner was cancelled in

respect of the property comprised in S.F.No.77/1 and 77/3A measuring an extent of 0.53.0 hectare and 2.45.0 hectare of land respectively situated at Krishnapuram Village, Pollachi Taluk, Coimbatore District.

2.It is the case of the petitioner that illegally the impugned order has been passed cancelling the patta which was earlier standing in the name of the petitioner. According to him, he is the absolute owner of the property and he claims title over the same by virtue of a Will executed by his father M.Ramasamy Gounder. However, it is the contention of the fourth and fifth respondents who are the sisters of the petitioner that they are the absolute owners of the aforementioned property by virtue of a Will also executed by their father M.Ramasamy Gounder.

3.As seen from the counter affidavit filed by the first respondent, a suit has been filed by the petitioner against the fourth and fifth respondents in respect of the dispute which is also the subject matter of this writ petition. The suit O.S.No.363 of 2012 is still pending on the file of the District Munsif Court, Pollachi. As seen from the affidavit filed by the petitioner as well as the counter affidavit filed by the respondents, there are disputed questions of fact involved in this writ petition. Further, since the civil suit has already been filed, the only remedy available to the petitioner as well as the fourth and fifth respondents with regard to the impugned order is to redress their respective grievances in the civil suit O.S.No.363 of 2012, which is now pending on the file of the District Munsif Court, Pollachi.

4.The learned counsel for the fourth and fifth respondents on instructions as well as the learned counsel for the petitioner on instructions submit that the status quo with regard to the subject property will be maintained till the disposal of the suit O.S.No.363 of 2012 and no further alienation/encumbrance will be made by either the petitioner or the fourth and fifth respondents.

5.Considering the nature of the dispute involved and the submissions made by the respective learned counsels, this Court disposes of the writ petition by directing the petitioner to approach the District Munsif Court, Pollachi in O.S.No.363 of 2012 which is still pending to redress all his grievance with regard to the subject matter of the dispute and vice versa, the fourth and fifth respondents are also directed to redress their grievances in the same suit. However, it is made clear neither the petitioner nor the fourth and fifth respondents are permitted to alienate/encumber the subject property and they shall wait for the outcome of the civil suit in O.S.No.363 of

2012 on the file of the District Munsif Court, Pollachi between both the parties for any further alienation.

6.With the aforesaid direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

- 1.The Sub-Collector,
Pollachi,
Coimbatore District.
- 2.The Tahsildar,
Pollachi,
Coimbatore District.
- 3.The Deputy Tahsildar,
Kinathukadvu Zone,
Pollachi,
Coimbatore District.

+1cc to the Government Pleader Sr.11388
+1cc to Mr.M.N.Balakrishnan, Advocate Sr.11046
+1cc to Mr.Nirmaleswar, Advocate Sr.10647

W.P.No.27867 of 2012

pvs[co]
srg 16/03/2020

WEB COPY