



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **31.07.2020**

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THE HONOURABLE MR.JUSTICE **D.KRISHNAKUMAR**

W.P. (MD) No.7475 of 2013

Saraswathi

...Petitioner

Vs

1.The Revenue Divisional Officer,
Devakottai,
Sivagangai District.

2.Ganesan
3.Vairavamurthy
4.Meenal @ Annapooranam
5.Kannan
6.Gandhiraja
7.Ramakrishnan

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the 1st respondent in Moo.Mu.A1-13386-2010 dated 21./03.2012 and quash the same and consequently direct the first respondent to include the petitioner's name along with the second respondent in the joint patta.

For Petitioner	: Mr.V.Perumal
For R1	: Mr.M.Pandiarajan Additional Government Pleader
For R2	: No appearance
For R3 & R4	: No appearance
For R5 to R7	: Dismissed for default (Vide order dated 30.11.2015)



ORDER

This Writ Petition is filed to quash the proceedings in Moo.Mu.A1-13386-2010 dated 21./03.2012 passed by the first respondent and consequently, to direct the first respondent to include the petitioner's name along with the second respondent in the joint patta.

2.Heard Mr.V.Perumal, learned counsel appearing for the petitioner and Mr.M.Pandiarajan, learned Additional Government Pleader appearing for the first respondent.

3.According to the petitioner, the respondents 2 to 7 and the petitioner are the legal heirs of one Ramasamy Konar and his father died intestate in the year 1974. The petition mentioned properties were enjoyed jointly without any partition and his brother viz., Ganesan, was incharge of the said properties. In such circumstances, his brother has transferred the patta in his name, without including the other share holders. Hence, the petitioner filed a petition before the first respondent to include himself and other legal heirs name in the patta. While the said petition was pending, the petitioner has filed a suit in O.S.No.35 of 2011 before the Sub-Court, Sivagangai claiming 1/6th share in the ancestral property and the same is pending. In the mean time, the first respondent has issued a notice directing the parties to appear before enquiry. Thereafter, the first respondent without considering the pendency of the suit, has passed an order stating that since the properties were orally partitioned by his father as per the customary rights, the parties are directed to approach the civil Court. Hence, the petitioner is before this Court.

4.The learned counsel appearing for the petitioner submitted that there is no dispute regarding the share of the petitioner in the petition mentioned property, but, the dispute is only with regard to the allotment of the share of the property. In this regard, the suit in O.S.No.35 of 2011 has been filed and the same is pending before the Sub-Court, Sivagangai. In the mean time, the RDO has passed an order without considering the pendency of the suit. At present, the learned counsel for the petitioner is not in a position to ascertain the pendency of the said suit. Therefore the order passed by the first respondent is liable to be set aside.

5.The learned Additional Government Pleader appearing for the first respondent submitted that if the petitioner is aggrieved by the said order, he can approach the concerned authority and file a revision under Section 13 of the Patta Pass Book Act.



6. In view of the submissions made on either side, this Writ Petition is disposed of by giving liberty to the petitioner to approach the Revisional Authority to challenge the order passed by the first respondent. No costs.

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Sd/-

Assistant Registrar(AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Revenue Divisional Officer,
Devakottai,
Sivagangai District.

+1 CC to M/s.V. PERUMAL, Advocate (SR-13554[F] dated 04/08/2020)

W.P. (MD) No.7475 of 2013
31.07.2020

srk(CO)

TR(17.08.2020) 3P 3C