



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. (MD)No.8138 of 2020

and

W.M.P (MD) Nos.7552, 7553 & 7554 of 2020

WEB COPY

R.Amsavalli

... Petitioner

Vs.

1.The Tahsildar,
Tahsildar Office, Ottanchathiram,
Dindigul District.

2.P.Raja Thevar

3.V.Dhanraj Thevar

... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the impugned order passed by the first respondent herein in his proceedings in Na.Ka.No.2027/2020/S dated 10.07.2020 and quash the same as illegal and further direct the first respondent herein not to measure and demarcate Survey No.117/3A in Kollampatti Village, Ottanchathiram based on the petitioner's representation dated 20.07.2020.

For Petitioner : Mr.V.Meenakshi Sundaram
for Mr.M.Sendhil Kumar

For R - 1 : Mr.C.M.Mari Chelliah Prabhu,
Additional Government Pleader.

ORDER

The petitioner has filed the present Writ Petition to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order passed by the first respondent in Na.Ka.No.2027/2020/S dated 10.07.2020 and to quash the same and further direct the first respondent herein not to measure and demarcate Survey No.117/3A in Kollampatti Village, Ottanchathiram based on the petitioner's representation dated 20.07.2020.

2.Mr.C.M.Mari Chelliah Prabhu, learned Additional Government Pleader takes notice for the first respondent.



3. According to the petitioner, the property in Survey No.117/3A to an extent of 25 cents situated in Kollapatti Village, Ottanchathiram Taluk, Dindigul District, originally belonged to one Rajalingam Pillai. After the demise of the said Rajalingam Pillai, there was a registered partition dated 21.07.1955 among the legal heirs and the properties were allotted into three schedules. Accordingly, the land to an extent of 65 cents were allotted in 'C' schedule to one Maruthappa Pillai, who is the petitioner's father-in-law. After the lifetime of the said Maruthappa Pillai, his son Rajalingam Pillai, who is the husband of the petitioner, became the owner of 'C' schedule properties. Since the said Rajalingam Pillai died, leaving behind the petitioner, son and daughter as his legal heirs, the petitioner is in possession and enjoyment of the properties in Survey No.117/3.

4. Further, according to the petitioner, in order to grab the property, the third respondent created forged documents and threatened the petitioner. Hence, the petitioner filed a suit in O.S.No.50 of 2019 before the District Munsif Court, Ottanchathiram for the relief of permanent injunction restraining the third respondent from any manner disturbing the peaceful possession and enjoyment of the property and the same is still pending and the petitioner has also filed a petition in CrI.O.P(MD)No.4813 of 2020 before this Court to provide adequate police protection to the petitioner's property in Survey No.117/3A against the third respondent and this Court, by order dated 18.03.2020, closed the Criminal Original Petition directing the parties to work out the remedy in the manner known to law. In these circumstances, the third respondent executed a sale deed dated 02.03.2020 in favour of the second respondent with respect to Survey No.117/3A to an extent of 25 cents situated in Kollapatti Village, Ottanchathiram Taluk, Dindigul District. In pursuance of the said sale deed, the first respondent tried to transfer the name of the second respondent in the patta and sub-division in Survey No.117/3A. Hence, the petitioner submitted her objection dated 10.06.2020 before the first respondent not to sub-divide Survey No.117/3A. Further, according to the petitioner, the first respondent has passed the impugned order dated 10.07.2020, without considering the issues in proper perspective and the first respondent has changed the patta in favour of the second respondent in a hurried manner without following the procedures as contemplated under the Tamil Nadu Patta Pass Book Rules, 1987. Challenging the impugned order passed by the first respondent, the petitioner has filed the present Writ Petition.

5. Mr.C.M.Mari Chelliah Prabhu, learned Additional Government Pleader appearing for the respondents submitted that if the petitioner is aggrieved by the impugned order, dated



10.07.2020, she can agitate the matter before the appellate authority and there is a provision under the Act to file an appeal before authority concerned.

6. In view of the aforesaid submissions made by the learned Additional Government Pleader, the learned counsel appearing for the petitioner submitted that the petitioner will file an appeal before the authority concerned along with stay application for granting of interim order for the aforesaid impugned proceedings and in such event, the appellate authority shall consider the stay application at the earliest.

7. Considering the submissions made by the learned counsel appearing on either side, this Court is of the view that in view of the alternative remedy available under Section 12 of the Tamil Nadu Patta Pass Book Act, 1983, the petitioner can seek her remedy before the Appellate Authority challenging the impugned order passed by the first respondent / Thasildar and this Court is not inclined to entertain the Writ Petition, at this stage. However, this Court is inclined to pass the following order:

i) The petitioner is permitted to file an appeal before the appellate authority within a period of one week from today.

ii) Further, the petitioner is also permitted to file an interim application along with the appeal to stay the impugned order passed by the Tahsildar.

iii) If such appeal is being filed within the aforesaid period, the concerned Revenue Divisional Officer, if it is otherwise in order, shall take on file and firstly consider the interim application filed by the petitioner as expeditiously as possible, without being unnecessarily adjourned, after providing an opportunity to the private respondents.

8. This Writ Petition is disposed of with the above terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)



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W.P.(MD)No.8138 of 2020

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

The Tahsildar,
Tahsildar Office,
Ottanchathiram,
Dindigul District.

Copy to:

The District Collector,
Dindigul District.

+1 CC to Mr.M. SENDHILKUMAR, Advocate (SR-13291[F] dated 28/07/2020)

+1 CC to SGP (SR-13374[F] dated 30/07/2020)

Order made in
W.P. (MD) No.8138 of 2020
Dated:
28.07.2020

KM (04.08.2020) 4P 5C