

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.02.2021

CORAM: JUSTICE N.SESHASAYEE

WP.No.2719 of 2021
& WMP No.3051 of 2021

S.Deepa
Rep.By power of Attorney
Agent Mohanakrishnan

...Petitioner

-Vs-

1.The District Collector,
Erode District.

2.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Chidambaram Colony, Erode -638 001

3.The Tahsildar,
Taluk Office,
Erode Main Road,
Panneer Selvam Park,
Erode-638 001

4.The Tahsildar,
Taluk Office,
Perundurai -638 052,
Erode.

5.The District Registrar,
Office of the District Registrar,
Annai Sathya Nagar,
Rangampalayam,
Erode-638 009

6.The Sub Registrar,
Office of the Sub Registrar,
No.105/162, Agraharam Street,
Perundurai -638 052
Erode.

7.The Sub Registrar,
Office of Sub Registrar,
Kangeyam Main Road,
Avalpoonthurai, Erode -638 115

8.Thiru P.Kasianna Gounder
9.Mrs.Subbulakshmi Jegadeesan

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 3 & 4 to pass orders on the petitioner's representation dated 22.06.2020 as directed by the first respondent in proceedings in O.Mu.13352/2020/U1 dated 21.07.2020 in accordance with the Tamil Nadu Patta Pass Book Act.

For Petitioner : Mr.A.R.L.Sundaresan, Sr.counsel
assisted by Mr.K.Muthu Ganesa Pandian
For Respondents: Ms.R.Janaki, AGP for RR1 to 4
Mr.T.M.Pappiah, Spl. Government
Pleader for RR5 to 7.

ORDER

The present petition is filed by the petitioner, seeking a direction to the respondents 3 & 4 to pass orders on the petitioner's representation dated 22.06.2020 as directed by the first respondent in his proceedings in O.Mu.no.13352/2020/U1 dated 21.07.2020 in accordance with the provisions of the Tamil Nadu Patta Pass Book Act, 1986.

2.The petitioner herein wants to challenge the proceedings of the District Collector in O.Mu.no.13352/2020/U1 dated 21.07.2020. The back ground of the case is that the petitioner has instituted a suit in O.S.No.262 of 2020 for partition and for other ancillary reliefs. During the pendency of the suit, the seventh respondent herein is seemingly appeared to have transferred the patta exclusively in her name. The objection to this effect is preferred to District Collector, Erode, who in turn, forwarded the same to the concerned Tahsildar as per the impugned proceedings.

3. Heard, Ms.R.Janaki, learned Additional Government Pleader for the respondents 1 to 4. The learned Additional Government Pleader submitted that the Tahsildar has fixed an enquiry scheduled to take place on 26.02.2021 at 11 a.m in the office of the third respondent and that separate notices will be issued to the parties concerned.

4.It is made clear that the Tahsildar, for that matter, no revenue official has power in law to decide any issue of title to any property and this Court also informed that a suit in O.S.No.262 of 2020 is pending before the District Collector, Erode, wherein, on perusing the typed set of papers, this Court has found that the ninth respondent intends to purchase the property from certain Kasianna Gounder, who was arrayed as the first defendant in O.S.No.262 of 2020, which even this Sale Deed has not yet registered for which the concerned Sub Registrar has raised a Check Slip dated 18.03.2020. Now in anticipation that this Sale Deed might be registered and that seventh respondent might obtain patta, the petitioner having apprehended so, rushed this Court

with the present Writ Petition.

5. It is made clear that no co-sharer can be prevented from transferring undivided share in the property and that such purchaser of a co-sharer in this case, admittedly, Kasianna Gounder. Even according to the petitioner as 1/3rd share in the property concerned, the only limitation is that such purchaser of the undivided share of the co-sharer, cannot get into physical possession except of a decree of partition. Therefore, even the partition suit is still pending, that might not be an embargo to other co-sharers to deal with such of their shares, except any of the transferees of the petitioner's co-sharers cannot claim physical possession of the property until a decree of partition passed by a Civil Court. This being the settled position in the civil law, the same would govern the functioning of the authorities.

6. So far as the present petition is concerned, having said that notwithstanding the extreme fear which the petitioner seems to have developed, it is the first effort for her to move the concerned Court for appropriate remedies. But so far as the present case is concerned, it is only appropriate for the petitioner or her Power of Attorney to participate in the enquiry that has already been fixed by the third respondent as indicated earlier which is scheduled to take place on 26.02.2021 at 11 am.

7. The Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(co)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

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To

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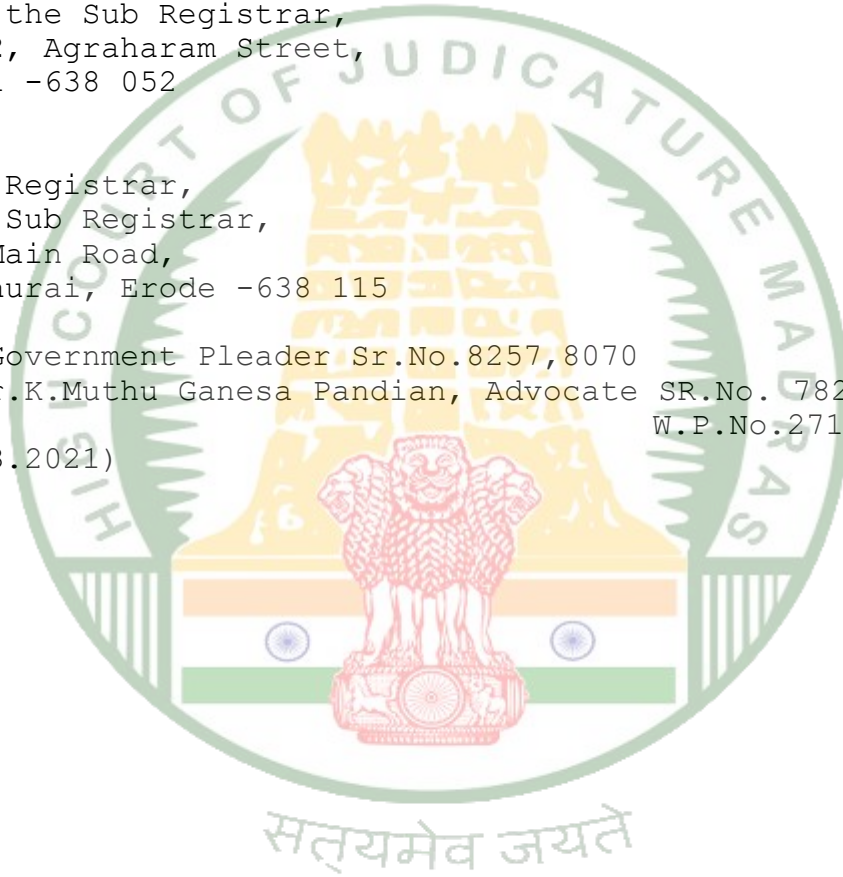
7.The Sub Registrar,
Office of Sub Registrar,
Kangeyam Main Road,
Avalpoonthurai, Erode -638 115

+1 cc to Government Pleader Sr.No.8257,8070

+1cc to Mr.K.Muthu Ganesa Pandian, Advocate SR.No. 7823

W.P.No.2719 of 2021

A.SK(12.03.2021)



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