



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2021

CORAM

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.27398 of 2015

and

M.P.No. 1 of 2015

M.Suseela

...Petitioner

Vs

1. The District Revenue Officer,
Krishnagiri District.

2. The Sub Collector,
Hosur.

3. The Tahsildar,
Hosur.

4. Sunil Patwa

...Respondents

Prayer :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records in Pa.Mu.28235/2014/J2, dated 16.06.2015, on the file of the first respondent and quash the same as illegal, incompetent and unconstitutional and further direct the respondents to issue patta to the petitioner in respect of the property bearing S.No.24 measuring 6 acres, situated at Rangopanditha Agraharam Village, Hosur Taluk.

For Petitioner : Mr.V.Raghavachari

For R1 to R3 : Mr.Richardson Wilson
Government Advocate

ORDER

This Writ Petition has been filed to issue a Writ of Certiorarified Mandamus, calling for the records in Pa.Mu.28235/2014/J2, dated 16.06.2015, on the file of the first respondent and quash the same as illegal, incompetent and unconstitutional and further direct the third respondent to issue patta to the petitioner in respect of the property bearing



S.No.24 measuring to an extent of 6 acres, situated at Rangopanditha Agraharam Village, Hosur Taluk.

2. Heard, Mr.V.Raghavachari, the learned counsel appearing for the petitioner and Mr.Richardson Wilson, learned Government Advocate appearing for respondents 1 to 3.

3. The case of the petitioner is that the land comprised in survey No.24 ad-measuring 6.60 acres situated at Rangopanditha Agraharam Village, Hosur Taluk, belongs to one K.R.Krishnaswamy. By a lease deed, the said K.R.Krishnaswamy leased out the said property for a period of 99 years, subsequently, it was cancelled on 15.05.1986. Thereafter, again he leased out by a fresh lease deed for a period of another 99 years in favour of one Nagarathinamma from 15.05.1986 to 14.05.2085. As per the lease deed, a sum of Rs.400/- has been paid as advance and a sum of Rs.500/- has to be paid every year. On 02.02.1989, the said Nagarathinamma had conveyed the lease hold right to the petitioner herein. From the said lease deed, the petitioner is in possession and enjoyment of the said property.

4. In the mean while, on 15.11.1989, the original lessor/ K.R.Krishnaswamy sold the said property in favour of late Pappamma, wife of late Kittappa, by way of a registered sale deed. She is non other than the adoptive mother of the petitioner. The petitioner's biological mother is Akkiamma @ Muniyamma, who is the sister of the said Pappamma. Since the Pappamma had no issue, the petitioner was treated as her daughter. The petitioner was in care and custody of the said Pappamma. Therefore, the petitioner as well as the said Pappamma were in possession and enjoyment of the said property. Thereafter, the said Pappamma appointed the fourth respondent as her Power Agent by a registered Power of Attorney on 10.09.1990. She also sold out 60 cents of the above said property with the specific boundaries in favour of one Pullappa under a registered sale deed dated 24.10.1990 and on the same day, possession was also delivered in his favour. Therefore, the said Pappamma has title with regard to the remaining extent of 6 acres.

5. While being so, on 06.12.1996, the said Pappamma died and according to the petitioner, she is the sole legal heir. The said Pappamma's death was registered on 16.04.2007 and the death certificate was issued on 17.04.2007 by virtue of an order passed in CMP No.140 of 2007, dated 09.03.2007. The third respondent issued legal heirship certificate, as the petitioner is only the legal heir of the said Pappamma. On the strength of the legal heirship certificate, the petitioner applied for separate patta and she was issued patta on 18.02.2009 for the subject property.

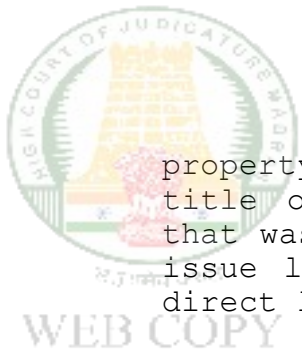


6. While being so, the third respondent, by the proceedings in 611/6138/2009 and 8A/900/1418, sub-divided the said property in the name of the fourth respondent and other persons. Thereafter, the petitioner approached the second respondent for seeking restoration of patta in her name. Considering the request of the petitioner, the second respondent directed the third respondent to restore the petitioner's name in the patta by the proceedings dated 20.11.2014. Aggrieved by the same, the fourth respondent preferred an appeal before the first respondent. The first respondent, after conducting due enquiry, passed an order impugned in this writ petition, dated 16.06.2015, thereby concluded that there is a title dispute between the alleged legal heir of the said Pappamma and the fourth respondent herein.

7. The learned counsel for the petitioner would submit that the fourth respondent claimed the property, on the strength of the power of attorney executed in favour of her vide registered document No.348 of 1990. Pending the power of attorney, she died on 06.12.1996. Once the principal dies, the power of attorney executed by her also expires and the fourth respondent has no authority to deal with the property on the strength of the power of attorney. Without considering the same, the first respondent simply stated that there is a title dispute and directed the parties concerned to approach the Civil Court.

8. Mr. Richardson Wilson, learned Government Advocate would submit that though the power of attorney, executed in favour of the fourth respondent, expired on the date of death of the principal i.e., Pappamma, on 06.12.1996 and the petitioner failed to prove that she is the only legal heir of the said Pappamma. Only on the strength of the death certificate, she claimed legal heirship certificate, before the third respondent and she was issued legal heirship certificate dated 17.09.2008. Admittedly, the said Pappamma had no issues and the petitioner claims to be her sister's daughter. Therefore, the third respondent has no power to issue any legal heirship certificate to the petitioner herein. She has to file a suit before the Civil Court to ascertain her legal heirship and thereafter only she can claim patta.

9. Admittedly, the petitioner is the daughter of the said Pappamma's sister, she is not a direct legal heir of the said deceased Pappamma. On the other hand, the fourth respondent claims the property on the strength of the power of attorney executed in her favour by the said Pappamma registered vide document No.348 of 1990. Thereafter, she died on 06.12.1996 and the power executed in favour of the fourth respondent also got expired. Except the power of attorney, the fourth respondent has no other document to prove her title over the subject



property. Whereas, the petitioner also failed to prove the title over the property except the legal heirship certificate that was issued by the third respondent, who has no authority to issue legal heirship certificate, when the petitioner is not a direct legal heir of the deceased Pappamma.

10. Hence, the first respondent rightly passed the order to restore the patta issued in favour of the legal heir of the said Pappamma and one Pullappa, who purchased the part of the land ad-measuring 60 cents from the total extent by jointly. Therefore, this Court finds no infirmity or illegality in the order passed by the first respondent. However, the petitioner is at liberty to approach the Civil Court to prove her legal heirship of the said Pappamma and thereafter approach the third respondent to issue patta in her favour.

11. In the result, the Writ Petition stands dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

Lpp/mn

To

1. The District Revenue Officer,
Krishnagiri District.
2. The Sub Collector,
Hosur.
3. The Tahsildar,
Hosur.

+1cc to M/s.V.Raghavachari, Advocate, S.R.No.48763

W.P.No.27398 of 2015
and
M.P.No. 1 of 2015

KSM(CO)
RGA(26/10/2021)