

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2021

CORAM

THE HON'BLE MR. JUSTICE S.S.SUNDAR

W.P.No. 7840 of 2021
and
W.M.P.No.8366 of 2021

A.K.Thangavel

..Petitioner

Vs

- 1.The District Collector,
Office of the Collectorate,
Dharmapuri, Dharmapuri District-636 705.
- 2.The District Revenue Officer,
Collectorate Dharmapuri District,
Dharmapuri-636 705.
- 3.The Revenue Divisional Officer,
Harur Revenue Division,
Salem Bypass, Periyar Nagar,
Harur, Dharmapuri District-636 903.
- 4.The Tahsildar,
Pappireddipatti Taluk,
Bommudi Pappiredipatti Road,
Anna Nagar, Pappireddipatti,
Dharmapuri District-636 903.

- 5.A.K.Natarajan
- 6.N.Selvam
- 7.N.Thamizhchelvi,
- 8.N.Lazar

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the record in Ni.Mu.No.3034/2018/Aa6 dated 20.11.2018 on the file of the 3rd Respondent and in Na.Ka.No.9482/2019/Pa2 dated 29.01.2021 on the file of the 2nd Respondent and quash the same and consequently direct the 4th Respondent to restore his name in the Patta.

For Petitioner : Mr.S.Arokiamaniraj

For RR 1 to 4 : Mrs.R.Janaki for RR1 to 4
Additional Government Pleader

O R D E R

This Writ Petition has been filed by the petitioner praying to issue a Writ of Certiorarified Mandamus calling for the records in Ni.Mu.No.3034/2018/Aa6 dated 20.11.2018 on the file of the 3rd Respondent and in Na.Ka.No.9482/2019/Pa2, dated 29.01.2021 on the file of the 2nd Respondent and quash the same and consequently direct the 4th Respondent to restore his name in the Patta.

2. Brief facts set out in the affidavit filed in support of the writ petition are as follows:-

It is submitted that the petitioner's mother was originally the owner of the property in Survey No.240/4, ad-measuring an extent of 92 cents in Sindalpadi Village, Pappireddipatti Taluk, Dharmapuri District. It is the case of the petitioner that his mother namely Dhanam Ammal executed a registered WILL dated 03.11.1980 in favour of the petitioner. According to the petitioner, since the petitioner's mother died on 06.10.1997, the petitioner became the absolute owner of the property by virtue of the registered WILL dated 03.11.1980, registered on the file of SRO, Harur. It is admitted that the 5th respondent is the brother of petitioner and respondents 6 & 7 are the son and daughter of the 5th respondent. It is the case of the petitioner that respondents 5 to 8 have created fraudulent documents as if they have title to the property. Though the petitioner contends that "A" Register in respect of Survey No.240/4, originally stood in the name of the petitioner, the respondents, by virtue of several subsequent documents, and in collusion with the Official Respondents, had changed Patta and also the Revenue records. As a result, the petitioner was constrained to give a police complaint before the District Superintendent of Police, Anti Land Grabbing Cell, Dharmapuri District. A representation was also made before the Revenue Officials for cancellation of Patta and the same was rejected by the 3rd respondent showing the pendency of suit. The Revenue Divisional Officer/3rd respondent passed an order dated 22.11.2018 stating that final order will be passed regarding mutation on the basis of the judgment of Civil Court in O.S.No.103 of 2012. The petitioner has preferred an appeal before the District Revenue Officer/2nd Respondent and the 2nd

respondent also confirmed the order of Revenue Divisional Officer/3rd Respondent. Challenging the order of the 2nd respondent dated 29.01.2021, and the order of 3rd respondent dated 22.11.2018 the above writ petition is filed.

3. In the present case, as seen from the facts narrated in the affidavit filed in support of the petition, this Court finds that the petitioner claims title to the property on the basis of the registered WILL alleged to have been executed by the petitioner's mother in his favour on 03.11.1980. The petitioner's brother is also a legal heir. Since several transactions have taken place affecting the interests of several others, the order passed by the 2nd respondent can not be faulted with. It is not for the Revenue Officials to decide the rival claims or whether the petitioner has title on the basis of the WILL relied upon the petitioner. Since the matter involves disputed question of fact and the rights of parties based on documents, the appropriate remedy is to approach the Civil Court. Other legal heirs of petitioner's mother are not added as parties. The 6th respondent also claims title on the basis of some family arrangement. The Revenue Officials exercising jurisdiction under the Tamil Nadu Patta Passbook Act or Revenue Standing Orders, cannot decide the disputed questions of facts or title. The issue regarding title and enjoyment in respect of family property among the legal heirs can be resolved only by a civil Court in a suit when all the legal heirs are parties.

4. Having regard to the limited jurisdiction of the Authorities under Section 10 of the Tamil Nadu Patta Passbook Act, 1983, and no machinery is provided under the Tamil Nadu Patta Pass Book Act, this Court is not inclined to entertain this writ petition to decide the rival claims between the parties, particularly when all the legal heirs of petitioner's mother are not parties. Hence, this Court has no reason to interfere with the order passed by the respondents 2 and 3 impugned in the writ petition as the petitioner has been directed to approach the civil Court by the authorities.

5. The petitioner is directed to approach the Civil Court and the civil Court shall resolve all issues arising for consideration, uninfluenced by any of the observations or findings of the Revenue Officials while refusing to grant Patta either to the Petitioner or any one in the family.

6. Accordingly, the Writ Petition is disposed of, subject to the liberty given to the petitioner to approach the civil

Court. Based on the verdict of civil Court, it is open to the petitioner to approach the Revenue Officials for modification of Revenue records. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

// True Copy //

Sub Assistant Registrar

msm

To

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Anna Nagar, Pappireddipatti,
Dharmapuri District-636 903.

+1cc to Mr.S.Arokiamaniraj, Advocate, SR.No.19824
+1cc to the Government Pleader, SR.No.20189

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KV (CO)
RLP (13.07.2021)

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