

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2021

CORAM: JUSTICE N.SESHASAYEE

W.P.No.7140 of 2019 and
W.M.P.No.7863 of 2019

N.Bakkialakshmi

...Petitioner

-Vs-

- 1.The District Collector,
Coimbatore.
- 2.The District Revenue Officer cum Additional District
Magistrate,
Collector's Office,
Coimbatore.
- 3.The Sub Collector,
Taluk Office Complex,
Pollachi-1.
- 4.The Tahsildar,
Pollachi Taluk,
Pollachi-1.
- 5.M.Mahalakshmi
- 6.Thiyagarajan
- 7.T.Sarojini
- 8.B.Chandrasekaran
- 9.B.Anguraj
- 10.Sathyapriya
- 11.Manochitra
- 12.Mahalakshmi
- 13.S.Sabarinathan
- 14.S.Kannan

...Respondents

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Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order dated 27.12.2018 made in Ni.Mu.No.10827/2017/E1 passed by the second respondent, quash the same and consequently direct the respondents 4 to 13 to work out their right over the lands in S.F.No.2/1B, 2/3 and 3/1B of Ambarampalayam Village, Pollachi Taluk, Coimbatore District before the competent civil court in the manner known to law.

For Petitioner : Mr.D.R.Arun Kumar

For Respondents : Mr.M.Manigopi, GA for RR1 to 4
Mr.R.Nandhakumar, for R5 to R9

ORDER

This Writ Petition is filed for a writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order dated 27.12.2018 made in Ni.Mu.No.10827/2017/E1 passed by the second respondent, quash the same and consequently direct the respondents 4 to 13 to work out their right over the lands in S.F.No.2/1B, 2/3 and 3/1B of Ambarampalayam Village, Pollachi Taluk, Coimbatore District before the competent civil court in the manner known to law.

2. The petitioner claims title based on certain Will, but, the petitioner also claims that there was an oral arrangement, in which, the property came to be allotted to her husband. She also claims that patta stood in the name of her husband for several years. Now, her grievance is that while things stood thus, the Tahsildar transferred patta in the name of the respondents 5 to 14 without any notice to the petitioner. In these circumstances, the petitioner is before this Court with this prayer to quash the said proceedings of the Tahsildar.

3. Heard Mr.M.Manigopi, learned Government Advocate for respondents 1 to 4 and Mr.R.Nandhakumar, learned counsel for R5 to R9.

4.Mr.M.Manigopi, learned Government Advocate brought to the notice of this Court a communication from the DRO dated 10.03.2021, wherein, he has indicated that the Will itself cannot be acted upon unless it is probated.

5. This observation of the DRO is fundamentally wrong since a Hindu Will extended outside the Presidency Town and not relating to the properties within the Presidency Town need not be probated.

6. This apart, the petitioner herein along with another, have laid O.S.No.200 of 2017, before the Sub Court, Pollachi for

declaration of title based on the identical contentions that she has taken here. In that, she claim that her husband obtained the entire property in question, based on the oral arrangement with the co-sharers of the property. This is being contested by the private respondents.

7. Inasmuch as the bone of contention as to title is still has to be resolved by the Sub Court, it is premature to go into the correctness as to what the Tahsildar has done. As the allegation of the petitioner that she was not heard by the Tahsildar before including the names of the respondents 5 to 14 concerned, even if it is true, that would pale into insignificance since the civil suit is pending. It is now appropriate that the Sub Court, Pollachi, is directed to dispose of the pending O.S.No.200 of 2017 as expeditiously as possible, not later than six months from the date of receipt of a copy of this order, excluding any summer vacation, 2021, if any.

8. It is made clear that any proceedings of the Tahsildar or other revenue authorities as concerning the entry of names in the revenue records pertaining to the property in question, will not bind the Sub Court. The learned Sub Judge shall decide the issue uninfluenced by any reasonings of the Tahsildar or such other revenue officials as a ground for their decision in mutating patta.

9. Accordingly, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

gsk

To

1.The Sub Court, Pollachi.

2.The District Collector,
Coimbatore.

3.The District Revenue Officer
cum Additional District Magistrate,
Collector's Office,
Coimbatore.

4.The Sub Collector,
Taluk Office Complex,
Pollachi-1.

5.The Tahsildar,
Pollachi Taluk,
Pollachi-1.

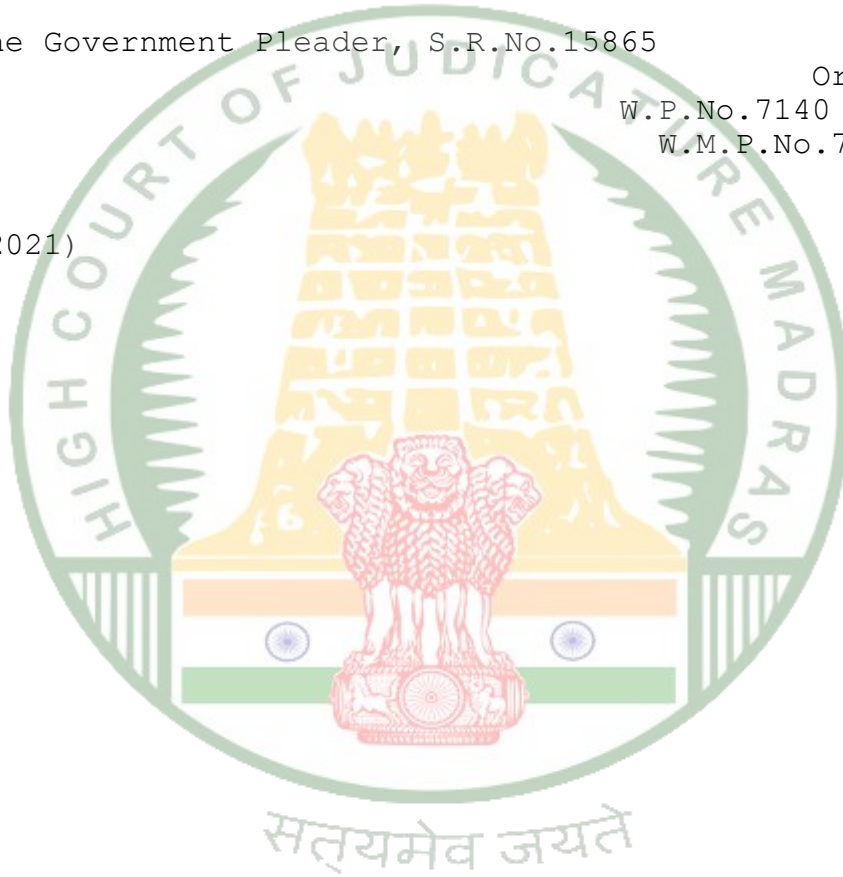
+1cc to Mr.D.R.Arun Kumar, Advocate, S.R.No.15584

+1cc to Mr.R.Nandhakumar, Advocate, S.R.No.15785

+1cc to the Government Pleader, S.R.No.15865

Order made in
W.P.No.7140 of 2019 and
W.M.P.No.7863 of 2019

GPL (CO)
KM(19/04/2021)



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