



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.08.2021

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P. NO. 14621 OF 2021

K.Murugeshan

...Petitioner

Versus

1.The District Registrar,
Salem West,
District Collector's Campus,
Salem - 636 001
Salem District.

2.The Sub-Registrar,
Omalur,
Omalur Taluk,
Salem District.

3.Govindaraj

4.Iyamperumal

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records relating to proceeding in serial No.56/2020 dated 17.6.2020 passed by the 2nd respondent quash the same consequently direct the 2nd respondent to cancel the partition deed No.2362/ 2011 dated 07.03.2011 in respect of S.No.121/14A, 118/4B.

For Petitioner : Mr.M.Elango

For Respondents 1&2 : Mr.Yogesh Kannadasan
Government Advocate

O R D E R

This writ petition is filed to quash the proceeding in serial No.56/2020 dated 17.6.2020 passed by the 2nd respondent and consequently direct the 2nd respondent to cancel the partition deed No.2362/ 2011 dated 07.03.2011 in respect of S.No.121/14A, 118/4B.



2. The case of the petitioner is that his grandfather's agricultural property in Survey Nos.121/14A and 118/4B, at Kanjanayakkampatty Village, Kadiaympatty (Tk), Salem District, has been partitioned vide document No.721 of 2001 dated 05.03.2001 and according to the partition, Scheduled-A property was allotted to the petitioner's father and Scheduled-B property was allotted to his uncle namely Dharmalingam. It is stated that an area was earmarked for common use. In that common area there was a pathway originating from east and runs to west of the scheduled property in Survey No.121/16 A1 and also a regular pathway in Survey No.137/3, in order to reach the land in Survey No.137/6 to 9. It is further stated that there was a covenant in the said partition deed to the effect that both the parties in the partition deed should not prevent or damage the said common pathway. Later the B-Scheduled property was partitioned on 02.03.2011, by the petitioner's uncle's sons and the partition deed was registered before the second respondent office in document No:2362/2011 on 07.03.2011. The grievance of the petitioner is that the common pathway and some extent of property comprised in Survey No.121/14A and 121/15 have also been included as their shares in partition deed dated 07.03.2011. Hence, the petitioner made a representation to the respondents seeking to cancel the partition in document No.2362/2011. By proceeding No.56/2020, dated 17.06.2020, the second respondent rejected the petitioner's representation stating that the matter relates to civil dispute and the petitioner need to approach the civil Court for appropriate remedy. Aggrieved by the same, the petitioner filed this present writ petition.

3. Learned counsel for the petitioner submitted that while registering the 2011 partition deed, the second respondent ought to have verified the parental documents namely 2001 partition deed. However, the second respondent has failed to do so. Hence, the learned counsel for the petitioner seeks direction to direct the respondents 1 and 2 to cancel the partition deed No.2362 of 2011 dated 07.03.2011 in respect of S.No.121/14A & 1118/4B.

4. Learned Government Advocate appearing for the respondents 1 and 2 submitted that the matter relates to civil dispute and the Registrars cannot deal with partition of properties. The petitioner may approach the civil Court regarding the issue of partition. Hence, prayed to dismiss this writ petition.

5. Considering the facts and circumstances of this case and the submissions made by both sides, this Court is of the view that if the petitioner is aggrieved regarding partition deed executed by his uncle's son, the petitioner may agitate this issue before the competent Civil Court and not before the respondents 1 and 2. The petitioner may approach the civil Court for appropriate relief.



Accordingly, this writ petition is dismissed with a liberty to the petitioner to approach the competent civil Court and file a civil suit. No costs.

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Sd/-
Assistant Registrar (CS-IX)

// True Copy //

Sub Assistant Registrar

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To

1. The District Registrar,
Salem West,
District Collector's Campus,
Salem - 636 001
Salem District.
2. The Sub-Registrar,
Omalur,
Omalur Taluk,
Salem District.

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SJ(CO)
RVM(16/12/2021)