



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2021

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.26196 of 2021

and

W.M.P.No.27646 of 2021

Sumathi

... Petitioner

Vs

1. The District Collector,
Erode District.

2. The Tahsildhar,
Sathiyamangalam Taluk,
Sathiyamangalam, Erode District.

3. The Taluk Head Surveyor,
Sathiyamangalam Taluk,
Sathiyamangalam,
Erode District.

4. Karunamoorthi

5. N.Velusamy

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1 to 3 to forbear the fourth and fifth respondents from interfering with the petitioner's peaceful possession and enjoyment of the lands in New Survey Nos.60/9, 60/4, 60/5, 60/6, 60/2, 61/5, 61/6, Poosaripalayam Village, Erode District.

For Petitioner : Mr.I.Abrar Md Abdullah

For Respondents: Mr.P.Baladhandayutham
Special Government Pleader
(for R1 to R3)



ORDER

This writ petition is filed to issue a Writ of Mandamus, to direct the respondents 1 to 3 to forbear the fourth and fifth respondents from interfering with the petitioner's peaceful possession and enjoyment of the lands in New Survey Nos.60/9, 60/4, 60/5, 60/6, 60/2, 61/5, 61/6, situated at Poosaripalayam Village, Erode District.

2. The case of the petitioner is that the petitioner's husband owned the property comprised in S.No.83/A3C, New S.No.60/9. He died intestate and the said property devolves upon the petitioner and her two daughters and her mother-in-law. While that being so, the fifth respondent had misused and by playing fraud on the petitioner, got himself conveyed her share by the sale deed dated 23.12.2015. Therefore, the petitioner filed a suit in O.S.No.225 of 2018 on the file of the Subordinate Court, Sathiyamangalam for declaration to declare that the sale deed dated 23.12.2015 is void ab-initio. Thereafter, the fifth respondent herein sold out the said property in favour of the fourth respondent. Thereafter, the fourth respondent purchased another $\frac{1}{2}$ share of the petitioner's mother-in-law and her daughters by the sale deed 26.09.2018. Again, the petitioner filed another suit in O.S.No.36 of 2020 on the file of the Subordinate Court, Sathiyamangalam against her mother-in-law for declaration on the ground that the entire property devolves upon the petitioner by the Will dated 20.12.2005 executed by her husband.

3. That apart, the petitioner filed another suit in O.S.No.11 of 2020 on the file of the Subordinate Court, Sathiyamangalam, for declaration in respect of the property comprised in S.No.258/1, Akkarainegamam Village, property comprised in S.Nos.61/5 and 6, Poosaripalayam Village and the property comprised in S.No.52, Akkarainegamam Village, on the basis of the Will dated 06.06.2002 executed by the petitioner's father. While pending the suit, the fourth respondent filed a Writ Petition before this Court in W.P.No.22833 of 2021 and this Court by order dated 25.10.2021, directed to survey the said properties. The petitioner was also served with notice for the survey proceedings which was to be conducted on 29.10.2021. However, the fourth respondent along with other henchmen had entered into the entire property.

4. The learned counsel for the petitioner submitted that, even as per the Writ Petition filed by the fourth respondent,



the Survey Numbers are mentioned as Old S.Nos.83/A3C, 404/1, New S.Nos.60/9A, 60/9 and 60/9B in Poosaripalayam Village, Santhiyamangalam Taluk, Erode District, whereas, the second respondent issued notice to survey the land comprised in respect of S.Nos.60/9A, 61/6, 61/5 and 60/4.

5. Considering the above facts and circumstances, the second respondent is directed to survey the land belonging to the fourth respondent as per the document produced by him and sub-divide the same as requested by the fourth respondent and shall not indulge in taking possession of the said property from the petitioner.

6. With the above direction, this Writ Petition is disposed of. Consequently, the connected Miscellaneous Petition is closed. No costs.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

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To

1. The District Collector,
Erode District.
2. The Tahsildhar,
Sathiyamangalam Taluk,
Sathiyamangalam, Erode District.
3. The Taluk Head Surveyor,
Sathiyamangalam Taluk,
Sathiyamangalam,
Erode District.

+1cc to Mr.I.Abrar Md Abdullah, Advocate Sr.66013
+1cc to the Government Pleader Sr.66099

W.P.No.26196 of 2021

sv[co]
srg 03/01/2022