



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.01.2021

CORAM

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P. (MD) No.557 of 2021

P.Buvaneshwaran

.. Petitioner

Vs

1.The District Registrar,
Sivagangai,
Sivagangai District.

2.The Sub Registrar,
Tiruppuvanam,
Sivagangai District.

3.Saravanakumar

4.Karthick

5.Manickavalli

6.Alagar Samy

.. Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, forbearing the respondents from registering document in respect of land in Survey No.9/2 at Madappuram Group, Thiruppuvanam Taluk, Sivagangai District by considering the representation of the petitioner dated 17.09.2020.

For Petitioner

: Mr.J.Anandkumar

For R1 & R2

: Mr.K.Sathiya Singh

Additional Government Pleader

ORDER

According to the petitioner, the land in S.Nos.9/1 and 9/2, measuring to an extent in total of 6 acres and 47 cents, was the ancestral property. The petitioner's grandparents executed a Will, dated 30.04.1985 in favour of their three daughters and in favour of their grandchildren including the petitioner herein. In the Will, it was mentioned that S.No.9/1 alone was the subject matter of the Will and not S.No.9/2. The Will had come into effect after the demise of the ancestor.

2.According to the petitioner, the land in S.No.9/2 was subdivided by his Aunt, one Muthulakshmi and she obtained separate patta in her favour. Later on, the petitioner came to know that the Will was fabricated, by inserting S.No.9/2 also. Based on the fabricated Will, the legal heirs, namely, respondents 3 to 6 have changed the patta in their favour in respect of S.No.9/2b and



attempted to alienate the property.

3. In the above circumstances, the petitioner appears to have preferred an appeal before the Revenue Divisional Officer, Sivagangai to cancel the patta. The said appeal was taken up for hearing and the enquiry was finally fixed on 24.09.2020. However, the appeal could not be disposed of and is still pending. According to the petitioner, when he applied for encumbrance certificate for S.No.9/2 from the year 1975 to till date, there is no entry in the encumbrance certificate.

4. The present grievance of the petitioner is that while enquiry is pending before the Revenue Divisional Officer, Sivagangai, the third parties having obtained the patta fraudulently and now attempting to create encumbrance in the property in question. In the circumstances, the petitioner submitted a representation to the 2nd respondent on 17.09.2020. The representation being not disposed of, the petitioner is before this Court seeking for issuance of Writ of Mandamus.

5. From the above factual aspects, it is very clear that the title dispute in regards to the S.Nos.9/1 and 9/2, is pending before the Revenue Divisional Officer concerned and no final order has been passed. In the meanwhile, the question of the petitioner approaching the respondents 1 and 2 for cancellation of the Will or any other instrument does not arise at all.

6. It is always open to the petitioner to obtain final orders in the proceedings before the Revenue Divisional Officer concerned and thereafter, he can initiate further action, according to the outcome of the proceedings of the Revenue Divisional Officer. It is certainly not open to the petitioner to initiate any parallel proceedings by approaching this Court for issuance of any direction in the meanwhile. This Court finds that that there is no specific cause of action for the petitioner to approach this Court and this writ petition appears to be premature and hence, it is dismissed. No costs.

Sd/-

Assistant Registrar (CSIII)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



To

1.The District Registrar,
Sivagangai,
Sivagangai District.

2.The Sub Registrar,
Tiruppuvanam,
Sivagangai District.

+1 CC to M/s.SPL GP (SR-1606[F] dated 21/01/2021)

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MJ(CO)
KB(09.02.2021) 3P 4C