



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **09.02.2021**

CORAM

THE HONOURABLE MR.JUSTICE **V.PARTHIBAN**

W.P. (MD) No.2261 of 2021

WEB COPY

R.Sankaramoorthy

Vs

... Petitioner

1.The Deputy Inspector General of Registration,
Office of the Deputy Inspector General of Registration,
Tirunelveli Zone,
Tirunelveli.

2.The District Registrar,
Tirunelveli District,
Palayamkottai Registrar Office,
Tirunelveli.

3.The Sub Registrar,
Kovilpatti Sub Registrar Office,
Kovilpatti,
Thoothukudi District.

4.The Tahsildar,
Kovilpatti Taluk,
Thoothukudi District.

5.Perumalsamy

6.Ponraj

7.S.Lakshmanaperumal

8.S.Nagarajan

... Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents 1 and 2 to consider the petitioner's representation dated 21.12.2020 and conduct the enquiry and dispose the same in accordance with law in a speedy manner as earlier as possible.

For Petitioner : Mr.M.Prabu

For R1 to R4 : Mr.M.Murugan
Government Advocate



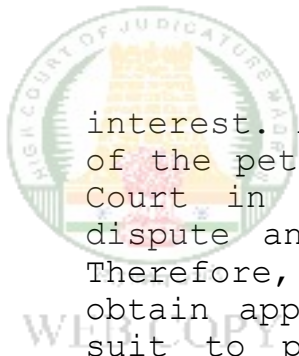
ORDER

The case of the petitioner is that the land bearing S.No.197/5, measuring an extent of 2.98 acre situated at Appaneri Village, Kovilpatti Taluk, Thoothukudi District, originally belonged to the petitioner's grandmother, Venkatalakshmiammal. The petitioner's mother, Avudiathai, and his maternal uncle, Subbanaikkar, were the legal heirs of the said grandmother. After the demise of the grandmother, the petitioner succeeded to the said property and he is in possession and enjoyment of the same without any interruption. The petitioner's mother died leaving behind him and his sisters as her legal heirs and his maternal uncle also died leaving behind his wife, Lakshmiammal, his sons, Ponraj and Perumalsamy, respondents 5 and 6 herein and his daughters, Ponnuthai, Chinnaponnuthai and Rajalakshmi as his legal heirs. As such, the petitioner and his sisters along with the legal heirs of his maternal uncle, Subbanaikkar are in joint possession and enjoyment of the property. According to the petitioner, he and his sisters are jointly entitled for 1/2 share over the subject property.

2.In the meanwhile, there appears to be a title dispute in regard to the joint ownership of the property consequent on the rival claims made on behalf of the private respondents, which necessitated the petitioner to file a suit in O.S.No.166 of 2020 before the District Munsif Court, Kovilpatti. After the filing of the suit, legal notice was issued to the 3rd respondent not to register any documents in respect of the schedule properties. But in spite of the pendency of the civil suit and the notice issued to the 3rd respondent, a power of attorney was executed by the 5th respondent in favour of the 7th respondent on 05.09.2020 and subsequently, the 7th respondent had executed two fraudulent sale deeds on 05.12.2020 in favour of respondents 8 and 9 and these documents have been registered by the 3rd respondent.

3.In the said circumstances, the petitioner appears to have submitted a representation dated 21.12.2020 to the respondents to conduct an enquiry and to dispose of the same in accordance with law.

4.This Court does not think that this writ petition could be entertained, when the petitioner and others have gone to the competent civil Court and filed a suit in O.S.No.166 of 2020 as against the rival claim of the private respondents 5 and 6. When the suit is pending before the competent civil Court, it is always open to the petitioner to seek any interim protection, safeguarding his right, pending finalization of the dispute by the civil Court. When the title dispute is pending before the civil Court as between the parties, it is not open to the petitioner herein to invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India and seek any parallel direction to protect his



interest. Any direction to be issued by this Court at the instance of the petitioner herein, when he is the plaintiff before the civil Court in regard to the same dispute will only precipitate the dispute and would also have direct bearing in the pending suit. Therefore, proper course of remedy open to the petitioner is to obtain appropriate directions from the civil Court in the pending suit to protect his interest during the pendency of the civil dispute.

5. In the above circumstances, this Writ Petition is not maintainable and accordingly, it stands dismissed. No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

To

1. The Deputy Inspector General of Registration,
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Thoothukudi District.
4. The Tahsildar,
Kovilpatti Taluk,
Thoothukudi District.

W. P. (MD) No. 2261 of 2021

09.02.2021

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