



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.03.2021

CORAM

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P. (MD)No.4476 of 2021
and
W.M.P. (MD)No.3597 of 2021

K.Kamalaveni Annathurai

: Petitioner

Vs.

1. The Tahsildar,
Boodhalur Taluk, Boodhalur,
Thanjavur District.

2. Ramasamy

: Respondents

PRAYER :- Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus, forbearing the 1st respondent from effecting any mutation in the Revenue Records in respect of the properties in S.Nos.55/2, 58/1, 50/3, 55/3, 58/8, 58/9, 2/10A, 49-1B, 221-1, 50-1, 59-1, 54-1, 96-2, 50-2A, 44-3, 221-4, 97-4, 85-6, 2-5, 36-7, 25-8, 58-7 and 2-11 situated at Vaanarangudi Village, Boodhalur Taluk, Thanjavur District without conducting any enquiry and provide an opportunity to the petitioner to put forward the objections

For Petitioner : Mr.G.Prabhu Rajadurai

For R1 : Mr.M.Jeyakumar
Additional Government Pleader

ORDER

The case of the petitioner is that the properties bearing S.Nos.55/2, 58/1, 50/3, 55/3, 58/8, 58/9, 2/10A, 49-1B, 221-1, 50-1, 59-1, 54-1, 96-2, 50-2A, 44-3, 221-4, 97-4, 85-6, 2-5, 36-7, 25-8, 58-7 and 2-11 situated at Vaanarangudi Village, Boodhalur Taluk, Thanjavur District, belong to her father Anna Durai and his two brothers, Parimel Alagar and Thriunavukarasu. They constituted a



ownership of the properties, as the properties are jointly cultivated by the legal heirs of the petitioner's grandfather Ramasamy Cholagar. According to the petitioner, on 02.03.1996, her father and his brothers partitioned the properties by executing a partition deed. However, the said partition deed was not registered.

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2. According to the petitioner, despite partitioning the properties in the year 1996, the patta in respect of the subject properties continues to be in the joint names without any change after the partition. Thereafter, the petitioner's father Anna Durai made an application with the first respondent for change of patta of the properties in terms of the partition deed, dated 02.03.1996. In pursuance to the application filed by the petitioner's father, an enquiry was conducted by the first respondent and it appears that by order, dated 29.12.2017, the first respondent held that the partition deed was not registered and therefore, no decision could be taken in the application submitted by the petitioner's father.

3. In the meanwhile, according to the petitioner, the second respondent appears to have made an application to the first respondent for change of patta in respect of the subject properties and in that regard, a legal notice was also issued to the first respondent on 07.12.2019 for not effecting any mutation in the revenue records. In view of the legal notice issued, the petitioner apprehends that the first respondent would proceed to change the patta in respect of the properties in the name of the second respondent and therefore, she is before this Court seeking issuance of Mandamus forbearing the first respondent from effecting any mutation in the revenue records in regard to the subject properties.

4. From the above factual narrative, this Court is unable to appreciate as to how a preemptive litigation can be maintained before this Court by the petitioner. The facts disclose that already a legal notice was issued to the first respondent on behalf of the petitioner on 07.12.2019 and as on date, no order appears to have been passed in the so called application submitted on behalf of the second respondent by the first respondent. In the absence of any order by the first respondent, this Court cannot presume that the first respondent would pass any orders affecting the interest of the petitioner illegally or unjustifiably. Even otherwise, this Court cannot issue a blanket direction on the basis of the self serving, bald averments of the petitioner to injunct a public official from carrying out his duties, which are lawfully vested in him. If any direction is to be issued at the instance of the petitioner, that would amount to give a finding on the ownership of the properties as between the petitioner and the private respondent. Such a course is not open to this Court in exercising its Writ jurisdiction under Article 226 of Constitution of India.



5.For the above stated reasons, this Writ Petition is dismissed.
No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar (CS-II)

// True Copy //

/ /2021
Sub Assistant Registrar (CS-)

To

The Tahsildar,
Boodhalur Taluk, Boodhalur,
Thanjavur District.

+1 CC to SPECIAL GOVERNMENT PLEADER (SR-9216[F] dated 05/03/2021)
+1 CC to Mr.G.PRABHU RAJADURAI, Advocate (SR-9071[F]dated 05/03/2021)

CMR

TE : 31/03/2021 : 3P/4C

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