



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.07.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) .No.11600 of 2021

and W.M.P. (MD) .Nos.9111 & 9112 of 2021

WEB COPY

Balammal

... Petitioner

Vs.

1.The District Collector,
Collectorate Campus,
Theni District,
Theni.

2.The District Registrar,
O/o. The District Registrar,
Periyakulam,
Theni District.

3.The Tahsildar,
Bodinayakkanur Taluk,
Theni District.

4.The Sub Registrar,
O/o. The Sub Registrar,
Bodinayakkanur,
Theni District.

5.Ganesan

6.Kannan

7.Venkatesh

8.Venkateshwaran

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 2nd respondent to cancel the registration of the Gift Settlement Deed executed by Veerajjiammal the mother of the 5th respondent in favour of the 5th respondent on the file of the 4th respondent vide Document No.2823/2020, dated 08.07.2020 and the consequential Power of Attorney Deed executed by the 5th respondent in favour of the 6th respondent vide Document No.2984/2020 dated 13.07.2020 based on the representation, dated 22.11.2020.

For Petitioner : Mr.R.Murugan

For Respondents : Mr.M.Lingadurai for R1 to R4
Government Advocate



ORDER

This writ petition has been filed for the issue of a Writ of Mandamus, directing the second respondent to act upon the representation made by the petitioner, on 22.11.2020, wherein, the petitioner has sought for cancellation of certain documents executed in favour of fifth respondent and the power of attorney executed by the fifth respondent in favour of the sixth respondent.

2.Heard Mr.R.Murugan, learned counsel appearing for the petitioner and Mr.M.Lingadurai, learned Government Advocate, appearing for the respondents 1 to 4.

3.It is seen from records that there is a serious dispute among the parties as to who is the legal heir of the deceased and a suit is pending in this regard in O.S.No.35 of 2020 on the file of the District Munsif Court, Bodinayackanur. During the pendency of the suit, it is alleged that the private respondents are creating documents and alienating the property. A specific plea has been raised by the petitioner to the effect that the Legal Heirship Certificate itself is a forged document. Therefore, the petitioner has approached this Court seeking for a direction to the second respondent to cancel the documents based on the representation made by the petitioner on 22.11.2020.

4.In the considered view of this Court, there is a substantial suit pending before the competent Civil Court. If any alienations are made during the pendency of the suit, the petitioner will have to move an appropriate application in the pending suit and seek for prohibitory orders.

5.The issue as to whether the Legal Heirship Certificate is a forged document, is again a matter to be considered by the Civil Court in the suit. A person cannot be allowed to parallelly move this Court in its writ jurisdiction and a writ petition cannot be filed just for the sake of obtaining an interim order. The law on this issue is well settled by the Honourable Supreme Court in ***Kalabharati Advertising Vs. Hemant Vimalnath Narichania and others*** reported in ***(2010) 9 SCC 437***. The Honourable Supreme Court has categorically held that the Forum of the Writ Court cannot be used for the purpose of securing an interim relief, where the final relief is only before the Concerned forum.

6.In the present case, the petitioner has to work out her remedy only in the pending suit and ultimately, if the Legal Heirship Certificate is found to be forged, the competent Court can take action and direct for the cancellation of the documents that were executed by virtue of such Legal Heirship Certificate. Therefore, the petitioner has to substantially work out all the remedies only in the pending suit and this Court will not entertain a writ petition parallelly just for the sake of issuing some interim directions.



7.It is left open to the petitioner to file necessary application in the pending suit and work out her remedy in the manner known to law and no further orders can be passed in the present writ petition.

8.This writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

TM

NOTE:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The District Collector, Collectorate Campus,
Theni District, Theni.

2.The District Registrar, O/o. The District Registrar,
Periyakulam, Theni District.

3.The Tahsildar, Bodinayakkanur Taluk,
Theni District.

4.The Sub Registrar, O/o. The Sub Registrar,
Bodinayakkanur, Theni District.

+1 CC to M/s.SPL GP (SR-22562[F] dated 14/07/2021)

W.P. (MD) .No.11600 of 2021
13.07.2021

RK (20.07.2021) 3P 6C