



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.09.2021

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P(MD)No.17053 of 2021

and

W.M.P. (MD)No.13983 of 2021

U.Zeenath Beevi

... Petitioner

Vs.

- 1.The Government of Tamil Nadu,
Rep. by its Secretary to Government,
Registration Department,
St. George Fort,
Chennai-600 009.
- 2.The Inspector General of Registration,
100, Santhome High Road,
Mullima Nagar,
Raja Annamalaipuram,
Chennai-600 028.
- 3.The District Registrar,
S.L.B.Girls Government Higher School near,
South Road, Nagercoil,
Kanniyakumari District-629 001.
- 4.The Sub Registrar,
Near Eraniel Police Station,
Thingal Nagar, Eraniel,
Kanniyakumari District-629 802.
- 5.K.S.M.Shahul Hameedhu
- 6.M.Haja Najumudeen
- 7.M.Thameemul Anshari
- 8.K.S.M.Akbarsha
- 9.Sithi Rabeeka Beevi Mohammed Hassan

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the fourth respondent to conduct an enquiry on the representation of

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the petitioner dated 13.09.2021 and pass suitable orders and thereafter deal with the pending Document Nos.P47/2021 and P48/2021 pending on its file presented by the respondents 5 to 8.

For Petitioner : Mr.Mohammed Fayaz Ali

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For Respondents : Mr.K.S.Selva Ganesan
Counsel for State (for R1 to R4)

ORDER

The petitioner seeks a direction to the fourth respondent to conduct and conclude an inquiry on the basis of the petitioner's representation dated 13.09.2021 before dealing with pending Document Nos.P47/2021 and P48/2021.

2.The petitioner claims that she is entitled to a share in the properties owned originally by K.S.Mohammed Hasan and Umma Rabia Beevi. Such claim is based on the principles of the Mohammedan Law of Succession. The petitioner asserts that respondents 5 to 9 herein are endeavouring to register deeds of conveyance before the fourth respondent by relying upon a Will. According to the petitioner, the property of a Mohammedan cannot be bequeathed under a Will except in accordance with applicable principles in such regard. Such principles are said to prevent a bequest of more than 1/3rd of the estate without the consent of the relevant legal heirs. The proposed registrations are opposed on such basis and a protest petition dated 13.09.2021 has been lodged in such regard. It also appears that the petitioner has filed O.S.No.53 of 2021 before the District Munsif Court, Eraniel, in such regard.

3.Mr.K.S.Selva Ganesan, learned counsel for the State, accepts notice on behalf of respondents 1 to 4. He submits that the fourth respondent does not have the authority to decide a dispute relating to title.

4.From the facts set out in the affidavit in support of the writ petition, it is evident that the petitioner refutes the authority of the private respondents to execute the relevant documents by relying upon the applicable principles of Mohammedan Law. The fourth respondent is, undoubtedly, not authorised to enter findings on questions of title. The documents enclosed with the writ petition include the plaint in O.S.No.53 of 2021. The said suit is for a permanent injunction to restrain the respondents from creating an encumbrance over the suit schedule property. Such suit has been filed in September 2021. It is always open to the petitioner to seek interim relief in such suit.

5.Nevertheless, when a protest petition is received, it is necessary on the part of the fourth respondent to deal with such



protest petition. To that extent, the petitioner is entitled to a direction.

6. Accordingly, without going into the merits of the matter, the fourth respondent is directed to consider the petitioner's representation dated 13.09.2021 and issue a reasoned order thereon within a period of thirty (30) days from the date of receipt of a copy of this order after providing a reasonable opportunity to the petitioner, the private respondents herein and any other person who would be affected by a decision in such regard. The fourth respondent is also directed to take into account the observations contained in this order before taking a decision.

7. W.P.(MD)No.17053 of 2021 is disposed of on these terms without any order as to costs. Consequently, W.M.P.(MD)No.13983 of 2021 is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sjl/sn

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 Secretary to Government,
Government of Tamil Nadu,
Registration Department,
St. George Fort, Chennai-600 009.
2. The Inspector General of Registration,
100, Santhome High Road,
Mullima Nagar, Raja Annamalaipuram, Chennai-600 028.
3. The District Registrar,
S.L.B.Girls Government Higher School near,
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4.The Sub Registrar,
Near Eraniel Police Station,
Thingal Nagar, Eraniel,
Kanniyakumari District-629 802.

+1 CC to M/s.SPL. GP (SR-30145[F] dated 24/09/2021)

W.P (MD) No.17053 of 2021

22.09.2021

RD(29.09.2021) 4P 6C