



W.P.No.32701 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.10.2022

Coram

The Honourable Mr.Justice M.DHANDAPANI

**W.P.No.32701 of 2015
and M.P.Nos.1, 2 & 3 of 2015**

Mrs.Kalaiselvi

...Petitioner

Versus

1.Inspector General of Registration,
Chennai.

2.District Registrar (Administration)
(Addl. Charge),
Tiruppur.

3.Superintendent of Police,
Tiruppur.

4.Inspector of Police,
Kundadam Police Station,
Kundadam, Tiruppur.

5.Sub-Registrar,
Dharapuram.

6.P.Venkatachalam

...Respondents



W.P.No.32701 of 20..

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records of the second respondent made in his proceedings in Na.Ka.No.6045/Aa1/2014 dated 08.06.2015 and quash the same.

For Petitioner	:	Mr.K.Sathish for M/s.Profexs Associates
For Respondents – 1 to 5	:	Mr.E.Vijay Anand, Additional Govt. Pleader

ORDER

The relief sought in this writ petition is to call for the records of the second respondent made in his proceedings in Na.Ka.No.6045/Aa1/2014 dated 08.06.2015 and quash the same.

2. The case of the petitioner is that her father Late Mr.N.C.Kumarasamy Gounder owned certain lands in Kundadam. One Muthusamy Mudaliar asked the petitioner's father to perform his last rites when he died and for incurring his funeral expenses, he handed over a land measuring to an extent of 5,096 sq.ft to the petitioner's father. Thereafter, the said Muthusamy Mudaliar committed suicide and died. Since the said Muthusamy Mudaliar has no legal heirs, the petitioner's father performed



his last rites. After the death of said Muthusamy Mudaliar, the petitioner's family has been in possession of the aforesaid land from 1975 onwards. Then, the petitioner's father died in the year 1992 and after his demise, petitioner got married in the year 1995.

2.1. Subsequently, the petitioner's mother Mrs.K.Soundaram vide registered Settlement Deed dated 15.12.1999, settled the aforesaid land in favour of petitioner. While so, during the year 2000-2001, petitioner's two sisters made a claim for the said land and disturbed the petitioner's possession over the said land. Hence, the petitioner filed an original suit in O.S.No.340 of 2001 and during the pendency of the same, the matter was settled between the petitioner and her sisters. They decided to share the subject land equally.

2.2. In the aforesaid land, there were three small houses. Those three houses were given for rent even during the lifetime of petitioner's father. Since the three members viz., Maragatham, Rukmani and Krishnan are residing as tenants in those three houses for many years and they are not financially sound, petitioner and her two sisters decided to sell the land to



those three tenants without taking any sale consideration from them. The remaining portion of 9 cents of the subject land is vested with the petitioner and her two sisters, in which, each of them is entitled for equal share of 2.75 cents. So, a compromise decree dated 20.01.2003 was passed by the learned Subordinate Judge, Dharapuram, as per which, the subject land was divided into three equal shares and the petitioner and her two sisters got one share each.

2.3. While so, in the year 2014, one Mr.Vishwanathan Chettiyan claimed right over the aforesaid land stating that the deceased Muthusamy Mudaliar's daughter Kannigaparameshwari had executed a promissory note for a sum of Rs.2,500/- and she took in the chit conducted by him. Further he claimed that he has been in possession and enjoyment of the subject land right from the year 1975 and his Power Agent one Kumarasamy has been maintaining the said land from the year 2001 onwards. On the other hand, one Mr.Venkatachalam gave a complaint to the fourth respondent stating that he is the owner of the subject land as a close relative of the deceased Muthusamy Mudaliar's daughter Kannigaparameshwari and the said Muthusamy Mudaliar had executed a Will in his favour. Based on his



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complaint, the fourth respondent called upon the petitioner and enquired about the subject land. Thereafter, the second respondent called the petitioner for enquiry. During the enquiry, the second respondent asked the petitioner to explain the facts of the case, however, he did not allow the petitioner to elaborate the facts in detail. Finally, the second respondent vide proceedings in Na.Ka.No.6045/Aa1/2014 dated 08.06.2015 directed the fifth respondent to file complaint before the fourth respondent to initiate criminal proceedings against the petitioner. Aggrieved over the same, the petitioner has filed the present writ petition before this Court for the relief stated *supra*.

3. The learned counsel for the petitioner submitted that prior to the issuance of impugned proceedings, the petitioner was not served with a copy of the complaint lodged against her. In the affidavit filed in support of the petition, it is clearly stated by the petitioner that the impugned proceedings issued by the second respondent is arbitrary, illegal and against the principles of natural justice because the second respondent without even allowing the petitioner to put forth her case elaborately, has issued the said proceedings. He also submitted that the petitioner's mother had settled the



subject land in favour of her daughter/petitioner by way of Settlement Deed dated 15.12.1999 and after the execution of said Settlement Deed, the petitioner has been in possession and enjoyment of the subject land. So far as declaration of title over the subject land is concerned, the same can be decided only by the competent Civil Court and the second respondent has confer no power to decide the same. He further submitted that as against the impugned proceedings issued by the second respondent, the petitioner has an effective appeal remedy before the first respondent and therefore, liberty may be granted to the petitioner to avail the same.

4. In view of the above submission made by the learned counsel for the petitioner, this writ petition is dismissed, however, liberty is granted to the petitioner to work out her remedy by way of filing an appropriate appeal before the first respondent, in the manner known to law. No costs. Consequently, connected miscellaneous petitions are closed.

12.10.2022

mrr

Index : Yes/No

Speaking Order (or) Non-Speaking Order



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M.DHANDAPANI, J.

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