



W.P.No.37655 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.10.2022

Coram

The Honourable Mr.Justice M.DHANDAPANI

**W.P.No.37655 of 2015
and M.P.No.1 of 2015**

Sudha

...Petitioner

Versus

- 1.The Collector of Perambalur,
Perambalur.
- 2.The District Revenue Office,
Perambalur.
- 3.The Sub Collector,
Perambalur.
- 4.Tahsildar,
Kunnam, Perambalur District.
- 5.Rajendran

...Respondents

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 relating to the order in Na.Ka.No.A2/845/2014, dated 20.10.2015 passed by the District Revenue Officer, the second respondent herein and quash the same.



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For Petitioner	:	Mr.M.V.Krishnan
For Respondents – 1 to 4	:	Mr.U.Bharanidharan, Additional Government Pleader
For Respondent – 5	:	Mr.C.Prakaran

ORDER

The relief sought by the petitioner in this writ petition is to call for the records of the second respondent relating to the order in Na.Ka.No.A2/845/2014, dated 20.10.2015 passed by the second respondent herein and quash the same.

2. The case of the petitioner is that the land measuring to an extent of 4 cents situated at Odiyam Village, Kunnam Taluk, Perambalur District belong to her husband's grandmother viz., Mrs.Chellammal. The fifth respondent is the son of said Chellammal. The fifth respondent never cared about his mother Chellammal. When the said Chellammal was ill, the petitioner and her husband took care of her. The said Chellammal died on 02.10.2010, at that time, her last funeral rites were performed by the petitioner's husband viz., Mr.Balasubramaniam. When the said Chellammal was alive, she settled the aforesaid land in favour of her grandson/petitioner's husband, by way of Gift Deed dated 23.03.2007. From the date of execution



of said Gift Deed, the petitioner's husband was in possession and enjoyment of the subject land as an absolute owner.

2.1. Subsequently, petitioner's husband settled the subject land in favour of petitioner vide registered Settlement Deed dated 27.07.2009. After conducting a proper enquiry, on 22.10.2009, the fourth respondent granted Patta in respect of subject land in the name of petitioner in Patta No.1515. However, in the said Patta, the Village Administrative Officer included the name of the fifth respondent along with the name of petitioner. Aggrieved over the same, petitioner gave a petition to the fourth respondent, pursuant to which, the fourth respondent vide order in Na.Ka.No.2/9350/2010 dated 24.01.2013, removed the name of fifth respondent from the Patta and included the petitioner's name as a Sole Pattadar of the subject land. Thereafter, the third respondent vide order in Mu.Mu.No.Aa.2/1611/2013 dated 26.12.2013, confirmed the order dated 24.01.2013 passed by the fourth respondent on the basis of the Gift Deed dated 23.03.2007 executed by the original owner Chellammal/grandmother of petitioner's husband and the Settlement Deed dated 27.07.2009 executed by the petitioner's husband.

2.2. While so, aggrieved over the order dated 26.12.2013 passed by



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the third respondent, fifth respondent moved the second respondent. The second respondent vide order in Na.Ka.No.Aa.2/845/2014 dated 20.10.2015 set aside the orders passed by the respondents 3 and 4 and included the name of fifth respondent along with the name of petitioner in the Patta issued in respect of the subject land. Challenging the order of the second respondent, the petitioner has filed the present writ petition before this Court.

3. The learned counsel for the petitioner submitted that already the fifth respondent had filed a civil suit in O.S.No.94 of 2013 before the District Munsif Court, Perambalur for declaration of title over the subject land and the same is pending. While a civil dispute between the parties are pending before the Civil Court, the second respondent ought not to have altered the Patta by including the name of the fifth respondent. Therefore, the learned counsel prayed this Court to grant liberty to the petitioner to file a fresh application before the fourth respondent, for issuance of Patta, if she succeeds in suit O.S.No.94 of 2013 which is pending on the file of District Munsif Court, Perambalur.

4. The learned counsel appearing for the fifth respondent submitted



that he has no serious objection to such liberty being granted to the petitioner by this Court.

5. Heard the learned counsel on either side and perused the materials placed before this Court.

6. The issue involved in the present case is that the petitioner and the fifth respondent claim title over the subject land. Already, a civil suit filed by the fifth respondent in O.S.No.94 of 2013 is pending before the District Munsif Court, Perambalur. So, the civil dispute between the parties has to be decided by the concerned Civil Court.

7. In the aforesaid circumstances, rendering any opinion on the merits of the case will adversely affect the interest of petitioner as well as the fifth respondent. Hence, this Court issues the following directions:

(i) The petitioner is directed to agitate the issue before the District Munsif Court, Perambalur where the suit O.S.No.94 of 2013 is pending.

(ii) The learned District Munsif, Perambalur shall decide the suit O.S.No.94 of 2013, without being influenced by any of the order passed by



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the respondents 2 to 4 herein, as expeditiously as possible.

(iii) Liberty is granted to the succeeding party to make a fresh application before the fourth respondent, for issuance of Patta.

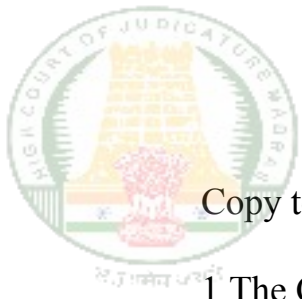
8. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

28.10.2022

mrr

Index : Yes/No

Speaking Order (or) Non-Speaking Order



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Copy to

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M.DHANDAPANI, J.

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