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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.26533 of 2014

And

M.P.No.1 of 2014

S.Manimekalai

... Petitioner

Vs.

1.The Thasildhar
Ariyalur Taluk,
Ariyalur District.

2.Sundar raj

3.Subburaj

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for records pertaining to the orders of the first respondent in Mu.Mu.A5/1721/2014 dated 20.08.2014 relating to land in Survey No.74/1 measuring about 0.27.0 Ares at Valajahnagaram Village, Ariyalur Taluk and District and quash the same.

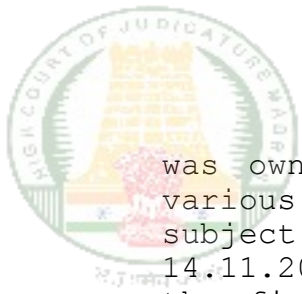
For Petitioner : Mr.S.Kamadevan

For Respondents : Mr.R.Vigneswaran for R1
Government Advocate
M/s.P.Palaninathan for R2

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorari calling for records pertaining to the orders of the first respondent in Mu.Mu.A5/1721/2014 dated 20.08.2014 relating to land in Survey No.74/1 measuring about 0.27.0 Ares at Valajahnagaram Village, Ariyalur Taluk and District and to quash the same.

2.The case of the petitioner is that the respondents 2 and 3 are the brothers of the petitioner. The petitioner's mother



was owning several properties. The respondents 2 and 3 sold various properties and the only remaining property is the subject property. The petitioner made representation dated 14.11.2013 to the respondents for issuance of joint patta and the first respondent also issued joint patta during February, 2014. While so the third respondent made representation dated 14.02.2014 seeking to review the orders passed by the first respondent stating that as per Hindu Succession Act, 1956, the petitioner is not entitled to get right and share in the mother's property and therefore her name should be deleted. Thereafter, the impugned order was passed. Hence, this writ petition.

3.The learned counsel appearing for the petitioner submitted that admittedly, the respondents 2 and 3 are the brothers of the petitioner. The petitioner's mother was owning several properties. The respondents 2 and 3 sold various properties and the only remaining property is the subject property. The petitioner made representation to the respondents for issuance of joint patta and the first respondent also issued joint patta during February, 2014. However, the first respondent passed the impugned order deleting the name of the petitioner without her knowledge, which is not sustainable one.

4.The learned counsel appearing for the petitioner further submitted that the reason assigned by the first respondent in the impugned order is non est in law. The first respondent has no power to decide the title and rights of the petitioner in the subject property. The revenue Officials cannot decide the title and rights of the parties. It can be decided only by the competent civil Court. He further submitted that the Hon'ble Apex Court in its decision reported in (2020) 9 SCC 1 (Vineeta Sharma Vs. Rakesh Sharma) has held that female legal heirs are entitled to equal share along with male legal heir.

5.The learned counsel appearing for the second respondent submitted that the first respondent issued summons to the petitioner, however, the petitioner deliberately not appeared before the first respondent. Hence, the impugned order is perfectly valid and warrants no interference.

6.The learned Government Advocate appearing for the first respondent submitted that initially patta stood in the name of the respondents 2 and 3. Thereafter, the petitioner made representation to the respondents for inclusion of her name in patta no.1481 and after examination of the village accounts and after obtaining deposition from the concerned V.A.O. and based on the legal heirship certificate, the petitioner's name was included in the patta. Thereafter, the third respondent made representation to the first respondent alleging that he has not given any deposition and sought for deletion of the petitioner's



name. The first respondent caused summons to the petitioner, however, the petitioner did not attend the enquiry and thereafter the impugned order was passed.

7. Heard the arguments advanced on either side and perused the materials available on record.

8. The facts in the present case is not in dispute. Admittedly, the respondents 2 and 3 are the brothers of the petitioner. The petitioner's mother was owning several properties. The respondents 2 and 3 sold various properties and the only remaining property is the subject property. The petitioner made representation dated 14.11.2013 to the respondents for inclusion of her name in patta no.1481 and her name was included in the patta during February, 2014. While so the third respondent made representation dated 14.02.2014 seeking to review the orders passed by the first respondent stating that as per Hindu Succession Act, 1956, the petitioner is not entitled to get right and share in the mother's property and therefore her name should be deleted. Thereafter, the impugned order was passed on the ground that married women are not entitled to share in the mother's property. However, the fact remains that married women are also entitled to share share in the mother's property.

9. It is the contention of the learned counsel appearing for the petitioner that the revenue Officials cannot decide the title and rights of the parties. It can be decided only by the competent civil Court.

10. If at all the third respondent has any grievance, the third respondent has to approach the competent civil Court, instead, approaching the first respondent is not sustainable one. Hence, the impugned order of the first dated 20.08.2014 is hereby set aside. Liberty is granted to the respondents 2 and 3 to work out the remedy in the manner know to law.

11. The writ petition is allowed. No costs. Consequently, the connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

The Thasildhar
Ariyalur Taluk,
Ariyalur District.

WEB COPY

+1cc to Mr.S.Kamadevan, Advocate SR. No.22127

+1cc to Government Pleader SR. No. 22692

W.P.No.26533 of 2014

And

M.P.No.1 of 2014

AJS (CO)

PR (20/04/2022)