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W.P.No.634 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.11.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.634 of 2017
and WMP.No.685 of 2017

S.Lizzy Sebastin

..Petitioner

Vs.

1.The District Collector,
Singaravelan Maligai,
No.62, Rajaji Salai,
Collectorate, Chennai.

2.The District Revenue officer,
Singaravelan Maligai,
No.62, Rajaji Salai,
Chennai.

3.The Tahsildar,
Aminjikai, Chennai 600 117.

4.Mr.Soundarapandian

5.Ravi Subramaniam

6.Usha Ravi Subramaniam

7.Sivashanmurugan'

8.Usha Sivamurugan

9.Sub Collector,
Tondiarpet Sub Division,
Chennai 600081

...Respondents



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Prayer: Writ petition has been filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus Calling for the records pertaining to the order in Che.Mu. Aa. No.A1/ 2462/ 2016 dated 30.12.2016 passed by the 9th respondent and quash the same and pass such further orders to meet the ends of justice.

For Petitioner : Mr.M.Gnanasekar

For R1 to R3 & R9: Mr.U.Baranidharan
Additional Government Pleader

For R4 to R8 : Mr.P.R.Balasubramaniam

ORDER

This petition has been filed for issuance of writ of Certiorarified Mandamus to call for the records pertaining to the order dated 30.12.2016 passed by the 9th respondent and quash the same

2. The case of the petitioner is that originally a total extent of 35 cents of lands comprised in Old S.F.No.20 in No.107, Koyambedu Village belonged to Lucas baby, K.Thomas and Gracy Thomas, by way of Sale Deed dated 22.05.1985 and thereafter the said persons entered into a partition arrangement among themselves by way of Partition Deed dated 12.06.1985 and in the said partition, 20.5 cents was allotted to the



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share of Lucas Baby and an extent of 7.75 cents was allotted to K.Thomas and 6.75 cents was allotted to Gracy Thomas and thereafter, the said Lucas Baby died intestate on 17.09.2008 leaving behind his wife Kunjumol Baby and his three daughters to succeed his estate. On 10.04.2013, the daughter of the said Lucas Baby, executed a Release Deed, released their 3/4th undivided share in favour of their mother Kunjumol Baby and thereby she became the absolute owner of the 20.5 cents. On 01.07.2013, the said Kunjumol Baby filed O.S.No.3496/2013 before XVIII Assistant Judge, City Civil Court, Chennai, praying for permanent injunction restraining the defendants therein to interfere with her peaceful possession and enjoyment of the property and the said Kunjumol Baby had obtained an order of interim injunction and the said interim injunction is extended from time to time and the Suit is still pending before the Trial Court. While so, on 11.07.2013, the said Kunjumol Baby and her two daughters had executed a Deed of power of attorney in favour of the petitioner, in respect of property admeasuring an extent of 20.5 cents and on the strength of the said Power of Attorney, the petitioner has sold a portion admeasuring 20-1/2 cents. Further the



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1st respondent by order dated 01.06.2004 had ordered transfer of entry effected in respect of Old S.F.No.20/2, New S.F.No.15,16,17,18,19,68,69,70,71,72 and 73 in Block No.55 and T.S.No.8/1 to an extent of 1.32 acres be cancelled and restored to original entry as 'Grama Mirasudargal'. Aggrieved by the said order, the occupants of the said land had filed W.P.No.24983/2004 batch, wherein the petitioner's principal were not party and the 1st respondent on the basis of the enquiry conducted had passed an order on 18.07.2016 directed the parties to file fresh application to the Tahsildar with relevant registered documents to prove the title over the property and the 1st respondent has passed the said order without putting the petitioner on notice. Challenging the said order, the present petition is filed.

3. The learned counsel appearing for the petitioner submitted that O.S.No.3496/2013 filed by the petitioner's principals is still pending and the interim injunction granted therein against the 4th respondent herein is still in force as on date and therefore, when there is a property dispute between the parties and a Civil Suit is pending in that regard before the



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Trial Court, private respondents are not entitled for patta and hence prays for appropriate orders.

4. This Court has carefully considered the submissions of the learned counsel for the petitioner and also perused the materials available on record.

5. Admittedly there is a property dispute between the petitioner and the private respondents and the same was landed before the 18th Assistant Court, City Civil Court, Chennai, in O.S.No.3496 of 2013 and when the suit is pending with regard to the subject property, the revenue officials have no power to decide the issue and therefore, the Trial Court shall decide the Suit independently without being influenced by the impugned order and further liberty is granted to the succeeding party in the pending Suit to file a fresh application, before the Revenue Divisional Officer for mutation of revenue records and if any such application is filed, the concerned authorities are directed to pass appropriate orders.



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M.DHANDAPANI.,J.

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6. For the reasons aforesaid, this Writ Petition is dismissed. No costs. Consequently connected miscellaneous petitions are closed.

24.11.2022

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To

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