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W.P.No.947 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2022

CORAM:

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.947 of 2017
and W.M.P.Nos.951, 21021 & 28700 of 2017
and W.M.P.No.21849 of 2018

V.Ramesh

... Petitioner

VS.

1.The Sub-Collector/ Revenue Divisional Officer,
O/o.The Sub-Collector/ Revenue Divisional Officer,
Fort Tondiarpet,
Toindarpet, Chennai – 600 081.

2.The Tahsildar,
O/o.The Tahsildar,
Fort Toindarpet,
Toindarpet, Chennai – 600 081

3.The Tahsildar,
O/o.The Tahsildar,
Aminjikarai,
Chennai – 600 081.

4.The Tahsildar,
O/o. The Tahsildar of Ayanavaram Taluk,
(Formerly known Perabmbut-Purasaiwakkam Taluk),
Ayanavaram, Chennai – 600 023.

5.V.K.Sathiyanarayanan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India,



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for issuance of a Writ of certiorari, calling for the records pertaining to the order of the 1st respondent made in Se.Mu.No.A5/103/2016 dated 03.10.2016 and quash the same.

For Petitioner : Mr.Jothi
for Mr.S.Vinod

For Respondents : Mr.Kumaresan for R1 to R4
Additional Advocate General
assisted by Mr.R.P.Murugan Raja
Government Advocate

: Mr.K.V.Subramanian for R5
Senior Advocate
for Mr.M.A.Abdul Wahab

ORDER

This Writ Petition has been filed challenging the order passed by the 1st respondent made in Se.Mu.No.A5/103/2016 dated 03.10.2016.

2.The case of petitioner is that the petitioner's mother namely Anusuya was initially married to one N.Krishnarajulu @ krishnaswami in the year 1936. The said Krishnaswami died on 17.04.1943 with no issues. During the year 1955, the said Anusuya married for the second time to one Velayudham (father of the petitioner). Out of the said wedlock the petitioner and his sister were born. Under the Hindu succession Act, 1956, a Hindu widow gets her



rights accrued to her in the property of her late husband. In view of the same, the petitioner's mother Anusuya is entitled to inherit the properties of the her late husband, who died issueless. Since, the valuation of the property has gone up, numerous proceedings started emerging at the instance of the third parties. Though they have no right over the property and not related to the property in any manner, proceedings were initiated by persons without impleading the petitioner herein as one of the party. The petitioner and his sister was impleaded as legal heirs after the death of the mother Anusuya @ Muniammal in O.S.No.18 of 1993 and in O.S.No.346 of 1994 on the file of the Principal Sub-Judge, Pondicherry. While so, On 22.06.2016, a letter was sent to the 1st respondent by one K.V.Sathyanarayanan to cancel the legal heir certificate issued to the petitioner and others. The 2nd respondent enquired into the issue by means of sub-delegation and placed the records before the 1st respondent pursuant to which the present impugned order is passed on 03.10.2016 by canceling the legal heir certificate as against the petitioner. Hence, the petitioner has come forward with the present Writ Petition.

3.Mr.Jothi, the learned counsel appearing for the petitioner would submit that the petitioner initially obtained a legal heir certificate in his name



and sister's name along with his mother's name Anusuya @ Muniammal, who passed away on 04.06.2007, mentioning her husband Krishnaraju and after a lapse of nine years, the 5th respondent made an application for cancellation of legal heir certificate which was issued in the year 2007. On 22.06.2016, a letter was sent by one K.V.Sathyanarayanan to cancel the legal heir certificate issued to the petitioner and others, pursuant to which the present impugned order is passed on 03.10.2016 by canceling the legal heir certificate as against the petitioner. Challenging the same, the present Writ Petition has been filed.

4.The learned counsel for the petitioner would further submit that on earlier occasion, on the very same principles, the 5th respondent namely one Chandran filed a suit in O.S.No.572 of 2012 against one Kumar to declare the plaintiff Chandran as the sole legal heir of the deceased Krishnaraju Chetti and that the said suit was decreed on 01.08.2012. Challenging the said decree granted by the Trial Court, the petitioner filed a suit in O.S.No.830 of 2015 for declaring the decree granted by the Trial Court as null and void and also for consequential prayer of permanent injunction.



5. In view of the pendency of the above said suit with regard to the same for declaration of the legal heir certificate, learned counsel submits that this Court without interfering with the order impugned in this Writ Petition, may permit the petitioner as well as the 5th respondent to canvas all the issue before the trial Court where the civil suit is pending and this Court may issue a further direction to the trial Court to decide the issue, in between the petitioner and the 5th respondent without being influenced by any of the observations made in the impugned order.

6. The learned counsel appearing for the 5th respondent would submit that similarly the legal heir of the above said Chandran had also filed a suit in O.S.No.44 of 2016, on the file of the Principle Sub-Judge, Pondicherry, for declaring that the judgment and decree dated 28.10.1993 passed in the suit in O.S.No.18 of 1993 as null and void and said suit is pending. However, he has no serious objection for granting the relief as sought for the learned counsel.

7. In view of the consent expressed by the learned counsel appearing for both the parties this Court without expressing any opinion and without interfering with the impugned order in this Writ Petition, is inclined to issue



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the following direction:

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(i)The petitioner as well as the 5th respondent shall raise all the issue before the Civil Court where the civil suit is pending and the trial Court is directed to dispose of the civil suit, without being influenced by any of the observations made in the impugned order, as expeditiously as possible.

9.Accordingly, this Writ Petition is disposed of with the aforesaid direction. No costs. Consequently, connected miscellaneous petition is closed.

29.09.2022

Index : Yes/No
Speaking Order : Yes/No
gba

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M.DHANDAPANI,J.

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