



WEB COPY

W.P.(MD)No.9821 of 2011

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P. (MD)No.9821 of 2011

and M.P. (MD)No.2 of 2011

A.Sahila

... Petitioner

versus

1. The Tahsildar,
Madurai North Taluk,
Madurai.
2. The Zonal Deputy Tahsildar,
Koolappati Zone,
Madurai North Taluk,
Madurai.
3. K.Asanammal Kasim
4. V.Amjathkhan
5. V.Kaja Kamal
6. Anwarbanu Amjat Ali
7. Kasim
8. S.Amjat Ali

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorari, to call for the records relating to the order made in R.T.R.No.1274/11, dated 11.03.2011 passed by the second respondent and quash the same.

For Petitioner : Mr.P.R.Prithiviraj
for Mr.L.Praveen Kumar

For R1 and R2 : Mr.D.Gandhiraj
Special Government Pleader

For R3 : No appearance



ORDER

This writ petition is filed as against the order dated 11.03.2011 passed by the second respondent/Zonal Deputy Tashildar, Madurai, granting patta in favour of respondents 3 to 6.

2. The learned counsel appearing for the petitioner submits that one Mymbon Ammal, who is the grandmother of the petitioner and mother of respondent Nos.3 to 6, orally gifted the property in Survey No.3/1, (New Survey No.1/2) to the petitioner and she is in possession and enjoyment of the property. But, the second respondent has passed the impugned order granting patta in favour of respondents 3 to 6, without conducting an enquiry and without providing an opportunity to the petitioner. Hence, the petitioner is before this Court.

3. The learned counsel appearing for respondent Nos.3 to 6 submits that the owner of the property is one Mymbon Ammal, who is the grandmother of the petitioner and the mother of the respondent Nos. 3 to 6 and they were in possession and enjoyment of the property. The second respondent, after conducting due enquiry, has passed the order impugned in this writ petition, granting patta in favour of respondent Nos. 3 to 6. The learned counsel further submits that the writ petitioner has already filed a suit in O.S.No.201 of 2011 before the District Munsif Court, Melur, seeking declaration to declare that she is the owner of the property and the said suit is still pending. The learned counsel further submits that the petitioner is having a remedy of appeal before the Revenue Divisional Officer and revision before the District Revenue Officer and without invoking the alternative remedy, the petitioner has straight away filed the present writ petition.

4. This Court considered the rival submissions made.

5. The petitioner claimed title over the property by way of oral gift. The subject matter of the land originally belonged to one Mymbon Ammal. The petitioner is the granddaughter of Mymbon Ammal and the respondents 3 to 6 are the sons and daughters of Mymbon Ammal. The second respondent claims that he has conducted an enquiry based on the report of the Village Administrative Officer that the respondent Nos.3 to 6 are in possession of the property and thereafter, he issued joint patta in favour of them. The petitioner cautiously filed a suit in O.S.No.201 of 2011 before the District Munsif Court, Melur, for declaration declaring that she is the owner of the property and the same is still pending.

6. Since the petitioner has already invoked the civil jurisdiction, the issue could be decided only by the Civil Court. Therefore, the writ petition is disposed of with liberty to the



petitioner to work out her remedy before the Civil Court. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar(CS)

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To

1. The Tahsildar,
Madurai North Taluk,
Madurai.
2. The Zonal Deputy Tahsildar,
Koolappati Zone,
Madurai North Taluk,
Madurai.

+1 CC to M/s.SPL.GP (SR-17947[F] dated 11/04/2022)

+1 CC to M/s.S. PALANIVELAYUTHAM, Advocate (SR-18315[F] dated 12/04/2022)

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_RD(27.05.2022) 3P 5C