



W.P.(MD).No.14990 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.14990 of 2013

and

M.P(MD) Nos.1 & 2 of 2013

Arimaya

... Petitioner

-VS-

1. The State of Tamil Nadu,
Represented by its District Collector,
Tiruchirappalli – 620 001.

2. The Tahsildar,
Mannachanallur Taluk,
Tiruchirappalli District.

3. Kalarani
Daughter of Rengasamy.

4. Selvakumar,
Son of Rengasamy

5. Karbagham
Daughter of Rengasamy

.... Respondents



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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records culminated in the proceedings number JP No.560/1422, dated 21.06.2013 on the file of the second respondent and quash the same as illegal, unenforceable, ultravires without jurisdiction and directing the second respondent not to make any kind of mutation in the revenue registry in respect of the property admeasuring an extent of 00134 square meters comprised in Natham S.F.No.618/13 Shanamangalam Village, Mannachanallur Taluk, Tiruchirappalli District.

For Petitioner	: Mr.K.S.Shankar Murali
For R1 & R2	: Mr.A.Baskaran Additional Government Pleader
For R-3 & R-4	: M/s.J.Anandavalli
For R-5	: No appearance

ORDER

The present Writ Petition has been filed challenging the order passed by the second respondent herein, under which, a joint patta already issued in the name of the writ petitioner along with the respondents 3 to 5 was cancelled.

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2. According to the learned counsel for the petitioner, the writ petitioner and the respondents 3 to 5 are the son and the daughters of one Rengasamy, who passed away on 12.10.2003. According to the learned counsel for the petitioner, the said Rengasamy had died intestate. Hence, he had filed O.S.No.148 of 2011, on the file of the District Munsif Court, Lalgudi, for the relief of partition and separate possession of his 1/4th share in the suit schedule properties.

3. Based upon the legal heir certificate issued by the Tahsildar, originally, a joint patta was issued in favour of the writ petitioner along with the respondents 3 to 5 herein. Thereafter, the respondents 3 and 4 claim that the said Rengasamy has executed a Will in their favour on 08.07.2002. Based upon the said Will and pendency of suit in O.S.No.148 of 2011, the respondents 3 and 4 had approached the second respondent for cancellation of the joint patta. Based upon the said representation, the second respondent has proceeded to cancel the joint patta. The said order is under challenge in the present Writ Petition.

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4. According to the learned counsel for the writ petitioner, admittedly, the petitioner and the respondents 3 to 5 are the legal heirs of the deceased Rengasamy, who died intestate. In case, the respondents 3 and 4 rely upon a Will, it is for them to establish the validity and genuineness of the Will in O.S.No.148 of 2011. Till Will is held to be valid by a Civil Court, the Revenue Authority cannot rely upon the said Will and cancel the joint patta.

5. Per contra, the learned counsel appearing for the respondents had contended that the Will dated 08.07.2002, is a registered Will and only based upon the registered Will, the Revenue Authorities have cancelled the joint patta.

6. I have carefully considered the submissions made on either side.

7. The petitioner claims that his father Rengasamy had died intestate, on the other hand, the respondents 3 and 4 claim that a registered Will has



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been executed by the said Rengasamy on 08.07.2002, in their favour. This issue has to be decided only by the competent Civil Court in O.S.No.148 of 2011. Till such time, the joint patta shall be restored in the name of the writ petitioner along with the respondents 3 to 5 herein.

8. In view of the above said facts, this Court passes the following order:-

(i) The order impugned in the Writ Petition is set aside, the second respondent is directed to restore the joint patta in the name of the writ petitioner along with the respondents 3 to 5.

(ii) The restoration of joint patta in the name of all the parties will not in any way influence the civil Court in arriving at a decision.

(iii) The learned District Munisf, Lalgudi is directed to dispose of the suit on or before 31.03.2023.

(iv) Based upon the result of the Civil Court proceedings, the parties are entitled to approach the Revenue Authorities.

(v) The second respondent is directed to restore the joint patta within a period of two weeks from the date of receipt of a copy of this order.

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9. With the above said observation, this Writ Petition stands allowed.

No costs. Consequently, connected Miscellaneous Petitions are closed.

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To

1. The State of Tamil Nadu,
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2. The Tahsildar,
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Tiruchirappalli District.



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R.VIJAYAKUMAR,J.

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