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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 08.03.2022
CORAM

THE HONOURABLE MR. JUSTICE C.SARAVANAN

Writ Petition (MD) No.3777 of 2020
and
W.M.P.(MD) No.3196 of 2020

M.Deivendran .. Petitioner

Versus

1.The Commissioner of Municipality,
O/o. the Commissioner of Municipality,
Chennai.

2.The Commissioner,
Guddalore Municipality,
O/o. Guddalore Municipality,
Guddalore,
Theni District.

3.M.Gunasekaran .. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the second respondent in his proceedings in Na.Ka.No.1928/2018/A1, dated 12.12.2019 and quash the same as illegal.

For Petitioner : Mr.M.Solaisamy
for Mr.M.A.M.Raja

For R1 : Mr.V.Nirmalkumar
Government Advocate

For R2 : Mr.M.Karuppasamy Pandian

For R3 : No Appearance

ORDER

There is no representation on behalf of the third respondent.

2.It appears that the petitioner and the third respondent are brothers, who are sons of late Mokkaiya Thevar. The dispute pertains to the property, which was originally assigned in favour of the petitioner and the third respondent's maternal grandfather

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namely, Mokkai @ Pinnath Thevar. After the death of Mokkai @ Pinnath Thevar, the property appears to have been assigned in favour of the petitioner and the third respondent's mother namely, Amaravathi.

3.It is the case of the petitioner that the property was settled in his favour by his mother by way of registered gift settlement deed dated 03.10.2017, pursuant to which, the petitioner took steps for altering the property with the second respondent, which was also granted on 29.11.2019. It appears that the third respondent filed a complaint with the second respondent on 24.09.2019, which has culminated in the order dated 12.12.2019, whereby the earlier order passed on 29.11.2019 stood recalled. The impugned order seems to indicate that the petitioner has not appeared before the second respondent before the impugned order was passed.

4.When the case was taken up for hearing, the learned counsel for the petitioner further submits that the third respondent had also taken steps to cancel the settlement deed, which came to be rejected on 31.01.2021, by the District Registrar, Periyakulam.

5.Considering the fact that the petitioner and the third respondent are brothers and are fighting for rights over the property belonging to their great grandfather, I am inclined to set aside the impugned order and remit the case back to the second respondent to pass appropriate orders on merits and in accordance with law, after hearing the petitioner and the third respondent. It is open to the petitioner and the third respondent to establish their rights before the second respondent. The second respondent shall endeavour to pass appropriate orders on merits and in accordance with law, within a period of 60 days from the date of receipt of a copy of this order. The second respondent is also directed to fix the first date of hearing for both the petitioner and the third respondent to appear for a personal hearing.

6.This Writ Petition stands allowed with the above direction. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (T&P)

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/ /2022

Sub Assistant Registrar(CS)

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To

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O/o. the Commissioner of Municipality,
Chennai.

2.The Commissioner,
Guddalore Municipality,
O/o. Guddalore Municipality,
Guddalore,
Theni District.

+1 CC to M/s.SPL.GP (SR-10997[F] dated 09/03/2022)

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RD(17.03.2022) 3P 4C

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