

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.09.2022

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.21887 of 2022

Tmt.M.Kasthuriammal

... Petitioner

VS.

1.The District Collector,
Sivagangai,
Sivagangai District.

2.The Tahsildar,
Taluk Office,
Thiruppuvanam Taluk,
Sivagangai District.

3.M.Saminathan

4.C.Kalimuthu

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Mandamus, directing the respondents 1 and 2 to consider the petitioner's representation dated 17.08.2022 and cancel the Patta which are all stands in the name of fourth respondent within the stipulated time fixed by this Court.

For Petitioner : Mr.N.Kalimuthu
For R1 & R2 : Mr.D.Sadiq Raja
Additional Government Pleader

ORDER

This Writ Petition is filed for issuance of a Writ of Mandamus, directing the respondents 1 and 2 to consider the petitioner's representation dated 17.08.2022 and cancel the Patta, which stands in the name of the fourth respondent.

2. The case of the petitioner is that her husband Muthukrishnapillai died on 04.11.1993. The third respondent viz., Saminathan is her son. The properties in S.Nos.223/4, 131/6, 131/9, 83/2 and 83/3 stand in the name of the petitioner's husband Muthukrishnapillai and the properties in S.Nos.131/10 and 131/11 stand in the name of Samiraja, who is the son of Muthukrishnapillai. The properties in S.No.131/7 stands in the name of the petitioner. The said Muthukrishnapillai has executed a registered Will, by virtue of Document No.89/1992, dated 29.09.1992, in respect of the above said properties. After the death of Muthukrishnapillai, the

petitioner entered into an unregistered partition deed on 18.08.2000 along with her sons viz., 1.Saminathan, 2.Palanikumar, 3.Venkatesan, 4.Saravanan and 5.Vadivelan equally. Thereafter, the said Saravanan died on 07.05.2016, leaving the petitioner as his sole legal heir and he never married and there is no issue for him.

3. While so, the third respondent along with the fourth respondent created a fraudulent unregistered gift settlement deed, dated 08.02.2016 as if the deceased Saravanan had executed the said gift deed in favour of him. Based on the said fraudulent gift settlement deed, dated 08.02.2016, he had registered a sale deed, dated 01.06.2016, in favour of the fourth respondent and the old patta number also transferred in the name of the fourth respondent. Hence, the petitioner has given a petition before the second respondent seeking to cancel the above said patta, which stands in the name of the fourth respondent. But the second respondent has not taken any action. Therefore, the petitioner has filed a suit in O.S.No.147 of 2019 before the learned District Munsif Court, Thiruppuvanam and the same was ordered in favour of the petitioner. Subsequently, the

respondents 3 and 4 filed an appeal before the learned Subordinate Judge, Manamadurai in A.S.No.14 of 2021 and the same was dismissed on 24.06.2022. Thereafter, the petitioner has given a petition on 17.08.2022, before the respondents 1 and 2 to cancel the patta issued in favour of the fourth respondent. But, till now the respondents 1 and 2 did not take any action. Hence, the petitioner has approached this Court by filing this writ petition.

4. Heard Mr.N.Kalimuthu, learned counsel for the petitioner and Mr.D.Sadiq Raja, learned Additional Government Pleader appearing for the official respondents.

5. The petitioner has annexed all the judgment and decree in O.S.No.147 of 2019 and A.S.No.14 of 2021 and also produced all the Pattas, which stood in the name of the husband Muthukrishnapillai and there is no material produced to show whether any appeal has been filed by the parties concerned. As such, the revenue authorities viz., the respondents 1 and 2 are directed to consider the representation of the

petitioner, dated 17.08.2022 and pass appropriate orders on the prayer of petitioner by cancelling the Patta stood in the name of the other parties as till date no other order has been produced by the said respondents in their favour and restoring the Patta to the original owner, after affording opportunity to the parties concerned, within a period of eight weeks from the date of receipt of a copy of this order.

6. With the above direction, this Writ Petition is disposed of. No costs.

15.09.2022

Index:Yes/No
Internet:Yes/No
akv

To

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Sivagangai District.

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V.BHAVANI SUBBAROYAN,J.

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