

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.09.2022

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.22111 of 2022

A.Sakkiah

... Petitioner

vs.

1.The District Revenue Officer,
O/o.The District Revenue Officer,
District Collector Office Building,
Madurai District.

2.The Revenue Divisional Officer,
O/o.Revenue Divisional Office,
Tirumangalam Taluk,
Madurai.

... Respondents

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 of the 1st respondent under the proceedings bearing No.Na.No.G2/30096/2022 dated 28.06.2022 and quash the same as ultra virus, illegal and not valid in law and in consequence directing the 1st respondent to take the review application dated 01.06.2022 filed by the

petitioner as against the order passed by the 2nd respondent in பி.மு.எண். 8158/2004 dated 09.11.2005 to his file and further direct the 2nd respondent to issue the certified copy of the impugned order dated 09.11.2005 challenged in the review application in respect of the petitioner's land comprised in S.No.77/1AP measuring 0.8.50 Ares, in S.No.79/2B measuring 0.37.00 ares and in S.No.79/2D measuring 0.19.50 Ares situated at Periya Aalankulam Village, Thirupparankundram Taluk, Madurai South, Madurai District, on merits within a period of time as may be fixed by this Court.

For Petitioner : Mr.M.Ponniah

For Respondents : Mr.D.Sadiqraja
Additional Government Pleader

ORDER

This writ petition has been filed challenging the proceedings of the first respondent dated 28.06.2022 and to quash the same and consequently direct the first respondent to take the review application dated 01.06.2022, filed by the petitioner to his file and further direct the second respondent to issue the certified copy of the impugned order dated 09.11.2005, challenged in the review application, in respect of the petitioner's land comprised in S.No.77/1AP measuring 0.8.50 Ares, in

S.No.79/2B measuring 0.37.00 ares and in S.No.79/2D measuring 0.19.50 Ares situated at Periya Aalankulam Village, Thirupparankundram Taluk, Madurai South, Madurai District.

2. The case of the petitioner is that the properties in S.Nos.77/1AP, 79/2B and 79/2D to an extent of 0.65.00 ares situated at Periya Aalankulam Village, Thirupparankundram Taluk, Madurai District originally belongs to the petitioner's mother. She executed registered gift settlement deeds in favour of her three sons including the petitioner. Subsequent to that, the petitioner and his brothers are the absolute owners of the said properties and they are in possession and enjoyment of the same. In such circumstances, the sisters of the petitioner's mother and their legal heirs filed a suit in O.S.No.501 of 2007 for partition, before the District Munsif, Thirumangalam. The said suit was dismissed on 20.02.2018. As against the dismissal of the said suit, the plaintiffs filed an appeal in A.S.No.50 of 2018 before the Sub-Court, Thirumangalam and the same was also dismissed on 28.02.2019. Aggrieved over the same, the plaintiffs have filed the Second Appeal in S.A.(MD)No.423 of

2020 before this Court and the same was dismissed on 11.03.2022.

3. During the pendency of the suit, the plaintiffs in the said suit illegally moved a petition before the second respondent to obtain Patta in their name in respect of the petitioner's properties, for which they have created fraudulent documents and get the joint Patta. The certified copy of the judgment in S.A.No.423 of 2020 was received on 08.04.2022. Hence, the petitioner filed the review application before the first respondent on 01.06.2022 and the same was rejected on 28.06.2022, stating that the review application can be filed within 30 days from the date of the order passed by the second respondent and the original order of the second respondent was not enclosed. Therefore, he filed an application before the second respondent to get the certified copy of the order of the second respondent. But the second respondent has rejected the request of the petitioner. Challenging the same, the present writ petition has been filed.

4. Mr.D.Sadiq Raja, learned Additional Government Pleader appearing for the respondents would submit that it is only a notice, wherein, the first respondent has directed the petitioner to give reasons for submitting the said review application belatedly and it is not a final order being passed by the authorities concerned.

5. Heard Mr.M.Ponniah, learned counsel appearing for the petitioner and Mr.D.Sadiqraja, learned Additional Government Pleader appearing for the respondents.

6. This Court, after hearing the parties, is of the view that there was a dispute regarding the title of the property, which has been gifted by the mother to the petitioner and when the mutation has been effected in the Patta, the authorities concerned has not considered the same. But during the pendency of the civil suit, the authorities concerned issued the Pattas in favour of the plaintiffs, who are not successful before the Courts below and the petitioner has to establish his right over the property. That

being the case, the petitioner is directed to approach the first respondent by giving an explanation as to why he could not file the said review application within the time and on receiving the said explanation, the first respondent is directed to apply his mind and after scrutinising the judgment and decree passed by the Courts below and pass appropriate orders in the review application, after holding an enquiry and giving an opportunity to the parties concerned, regarding the said mutation, within a period of six months from the date of receipt of a copy of this order.

7. With the above directions, this Writ petition is disposed of. No costs.

20.09.2022

Index:Yes/No

Internet:Yes/No

akv

To

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