



W.P(MD)No.22656 of 2015

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.11.2022**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.22656 of 2015

M.Abdul Kadar

... Petitioner

Vs.

1.The Tahsildar,
Aranthangi Taluk,
Pudukottai District.

2.K.Ganesan

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent in PTR 1951/14 dated 30.07.2014 and quash the same with a consequential direction to restore status quo ante.

For Petitioner : Mr.N.Balakrishnan

For R1 : Mr.B.Saravanan
Additional Government Pleader

For R2 : Mr.R.Paranjothi



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ORDER

The present writ petition has been filed challenging an order passed by the first respondent herein, under which patta standing in the name of the writ petitioner's mother was transferred in the name of the second respondent herein and his father.

2. According to the learned counsel for the petitioner, the property in dispute was originally owned by his mother Mariam Beevi, who died intestate leaving behind 2 sons, namely Naina Mohammed, Abdul Kadar (writ petitioner) and a daughter Syedu Beevi. The said Naina Mohammed and Syedu Beevi have jointly executed a registered sale deed in favour of the second respondent and his father on 06.11.2003 without the knowledge of the writ petitioner. Based upon the said sale deed, the first respondent herein has passed the impugned patta proceedings, transferring the patta in favour of the second respondent and his father. This order is under challenge in the present writ petition.

3. The learned counsel for the petitioner submits that when the



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petitioner has not joined in the said sale deed, the sale deed executed by Naina Mohammed and Syedu Beevi in favour of the second respondent and his father is not binding upon the share of the writ petitioner. Hence, he requested the Court to cancel the said patta.

4. Per contra, the learned counsel appearing for the second respondent relies upon a partition deed, dated 21.04.1987 said to have been entered into between the legal heirs of Mairam Beevi.

5. The learned counsel appearing for the second respondent had contended that the two of the legal heirs of Mariam Beevi have executed a sale deed in favour of the second respondent and his father. Only based upon the sale deed, patta mutation has been effected by the first respondent herein and hence, the order may be sustained.

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

7. It is not in dispute that one Mariam Beevi is the owner of the property and she had died intestate leaving behind three legal heirs. Out



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of the three legal heirs, two of them have jointly executed a sale deed in favour of the second respondent and his father. It is also admitted that the writ petitioner was not a party to the said sale deed. In view of the above said facts, exclusive patta cannot be issued in favour of the second respondent leaving out the writ petitioner. Hence, the order impugned in the writ petition is set aside. The first respondent is directed to issue a joint patta in the name of the writ petitioner and the second respondent. The said status shall continue till the parties approach the competent Civil Court for partition.

8. With the above said observations, this Writ Petition stands allowed. No costs.

03.11.2022

Index : Yes / No
Internet : Yes / No

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To

The Tahsildar,
Aranthangi Taluk,
Pudukottai District.

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R.VIJAYAKUMAR ,J.

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Order made in
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