



W.P(MD)No.23127 of 2015

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **15.09.2022**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.23127 of 2015

D.Xavier Arockiasamy

... Petitioner

Vs.

1.The District Revenue Officer,
District Revenue Office,
Sivagangai.

2.The Revenue Divisional Office,
Devakottai,
Sivagangai.

3.K.Sornalingam

4.K.Kannan

5.Rajamani

6.S.Karuthasamy

7.C.Ramkumar

... Respondents

(R7 is impleaded vide Court order, dated
04.08.2022 in W.M.P(MD)No.9308 of 2021)

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the



W.P(MD)No.23127 of 2015

records relating to the impugned proceedings of the first respondent dated. 16.10.2015 in rP.k.gp 1-35-2010 and quash the same.

For Petitioner : Mr.R.Sundar Srinivasan
For R1 & R2 : Mr.M.Linga Durai
Special Government Pleader
For R3 - R6 : No Appearance
For R7 : Mr.Musthafakhan

ORDER

The present writ petition has been filed challenging an order passed by the first respondent herein, under which he has included the name of the respondents 3 to 6 as joint pattadhars.

2. According to the learned counsel for the petitioner, the suit property absolutely belonged to one Karuthasamy and he had executed a registered sale deed in favour of one Jeyasudha through a power agent on 04.09.2006. The said Jeyasudha has executed a registered sale deed in favour of the writ petitioner on 15.11.2006.

3. According to the learned counsel for the petitioner, patta was transferred in his name on 27.12.2007 in Patta No.697.



W.P(MD)No.23127 of 2015

WEB COPY

4. However, the respondents 3 to 6 approached the second respondent herein contending that the property is the joint family property of Karuthasamy, in which his sons are also entitled to a share. Any power deed executed by Karuthasamy will only bind his share and not the shares of his sons. This request was rejected by the second respondent. The private respondents have approached the District Revenue Officer by way of a revision. The first respondent herein by his impugned order, dated 16.10.2012 has arrived at a finding that the property is not the absolute property of Karuthasamy, but it is only an ancestral property of Karuthasamy, in which his sons are also having a share. The power deed executed by Karuthasamy will be binding only upon his share. Based upon the said findings, the first respondent herein has directed to include the name of the private respondents also in the patta and has converted the separate patta into a joint patta. The said order is under challenge in the writ petition.

5. The learned counsel for the petitioner has contended that the first respondent herein has no jurisdiction, whatsoever to decide about the character of the property. According to him, a sale deed executed by Karuthasamy in favour of Jeyasudha does not disclose that it is an



W.P(MD)No.23127 of 2015

ancestral property. Though the sale deed was executed in the year 2006, the said sale was not objected to by his sons till 2010. Hence, he contended that the findings arrived at by the first respondent herein would amount to usurping the jurisdiction of the Civil Court.

6. Per contra, the learned counsel for the seventh respondent, who is a purchaser from the respondents 3 to 6 had contended that it is only an ancestral property of Karuthasamy and he has purchased the property on 19.07.2016. Based upon the purchase of undivided share made by him, the seventh respondent has filed O.S.No.252 of 2022 on the file of Sub Court, Devakottai for the relief of partition and separate possession. Hence, according to the learned counsel for the seventh respondent, once a civil suit is pending, this Court cannot exercise its jurisdiction to interfere in the order passed by the District Revenue Officer. The said issue may be left to be decided by the Civil Court.

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

8. The first respondent herein by his order, dated 16.10.2012 has arrived at a categorical finding that the property in dispute is the ancestral property of Karuthasamy, in which his sons are also having a



W.P(MD)No.23127 of 2015

share. Only based upon the said finding, he has directed to include the names of the respondents 3 to 6 and to convert a separate patta into a joint patta. Hence, it is clear that the revenue authority has decided about the character of the property and he has also decided the title of the petitioner herein. In view of the fact that the first respondent has no jurisdiction to arrive at a such a finding, the order impugned in the writ petition is set aside. The patta is restored in the name of the writ petitioner. However, if the seventh respondent herein succeeds before the Civil Court in the partition suit, he is at liberty to approach the revenue authorities for mutation of revenue records based upon the result of the suit. However, grant of patta in favour of the writ petitioner shall not be a determining factor for deciding the civil suit.

9. In view of the above said observations, this Writ Petition is allowed. No costs.

15.09.2022

Index : Yes / No
Internet : Yes / No

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W.P(MD)No.23127 of 2015

R.VIJAYAKUMAR ,J.

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To

- 1.The District Revenue Officer,
District Revenue Office,
Sivagangai.
- 2.The Revenue Divisional Office,
Devakottai,
Sivagangai.

Order made in
W.P(MD)No.23127 of 2015

Dated:
15.09.2022