



W.P(MD)No.28545 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.12.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.28545 of 2022

S.Akbar Ali

... Petitioner

Vs.

1.The Revenue Divisional Officer,
Paramagudi,
Ramanathapuram District.

2.The Zonal Deputy Tahsildar,
Mudukulathur,
Ramanathapuram District.

3.The Sub Registrar,
Mudukulathur,
Ramanathapuram District.

4.Abdul Rahim

5.Megarnisha

6.Rabiyabeevi

7.Abdul Malik

8.Mohammed Alam

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India,
praying this Court to issue a Writ of Mandamus, to direct the 1st respondents to



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pertaining to the 2nd respondent the proceedings D.R.2020/0103/27/07734TR Dated 05.02.2020 and D.R.2020/0103/27/079379TR Dated 05.03.2020 D.R. 2020/0103/27/080110TR dated 17.03.2020 cancel the same by considering 3rd respondent to register further documents comprised in S.No.36/3A, 95/1B, 96/1, 410/14D, 413/1D1, 413/5A, 419/1A, 410/1D, 128/2A, Muthukulathur, ilajambur group, Pookulam village, Ramanathapuram district within the time frame that may be stipulated by this Court.

For Petitioner : Mr.G.Sakthi Rao

For Respondents : Mr.G.Suriyananth
Additional Government Pleader for R1 to R3

ORDER

Heard the learned counsel appearing for the petitioner and the Additional Government Pleader appearing for R1 to R3.

2. Considering the nature of relief to be granted, issuance of notice to the private respondents is dispensed with.

3. The petitioner's case is that the subject property belonged to his grandfather Abdul Majid. Abdul Majid is no more. He is said to have left behind two sons and two daughters. The fourth respondent is one of the sons. He is none other than the petitioner's paternal uncle. The petitioner alleges that



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the fourth respondent by suppressing the existence of the petitioner's father had obtained legal heir certificate as if he and two sisters alone are the legal heirs.

Based on the said legal heir certificate, he is proposing to deal with the property also. The petitioner's counsel therefore seeks two fold reliefs before this Court.

(I) The first part of the prayer is for cancelling the mutation patta effected by the second respondent.

(II) The other relief is for forbearing the registering authority from receiving any document in respect of the subject property.

4. As regards the second part of the prayer, as rightly pointed out by the learned Additional Government Pleader, such a relief can be obtained by the petitioner only before the jurisdictional civil Court. The registering authority has been conferred with certain powers of cancellation under Section 77(A) of the Act. As the very name would amply, such power can be invoked only post registration. At the pre-registration stage, the Registrar will hold his hands only if he receives restraint order from the concerned court. The exercise of his power is confined by the terms of Rule 55 of Registration Rules. Rule 55 is as follows:-



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5. The facts projected by the petitioner does not fall within any of the circumstances mentioned in Rule 55. Therefore, the second part of the prayer cannot be granted in the present proceedings. The petitioner has to necessarily work out his right elsewhere. Mutation in favour of the fourth respondent and his siblings was made in the year 2020. The petitioner has filed an appeal before the first respondent on 12.09.2022. The first respondent is directed to consider the same and dispose it of on merits and in accordance with law within period of twelve weeks from the date of receipt of a copy of this order. I make it clear that I have not gone into the merits of the matter. The first respondent shall put all the interested persons on notice before passing final order.

6. The Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes/ No
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To

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2.The Zonal Deputy Tahsildar,
Mudukulathur,
Ramanathapuram District.



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3.The Sub Registrar,
Mudukulathur,
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G.R.SWAMINATHAN, J.

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