



W.P.No.17141 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.17141 of 2023

K.Rani

... Petitioner

vs.

1. The Executive Magistrate / Thasildar,
Ayanavaram,
Chennai – 600 023.

2. Muthulakshmi

3. Mallika

4. Punitha

4. Arasuprakash

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India
praying to issue a writ of Mandamus directing the 1st respondent to take
the petitioner's complaint dated 26.10.2022 on file and dispose the same.

For Petitioner

: Mr.M.Silambarasan
for S.J.Daniel

For Respondents

: Mr.M.Alagu Goutham
Government Advocate for R1



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ORDER

This writ petition has been filed seeking for issuance of a writ of mandamus to direct the 1st respondent to consider and dispose of the petitioner's complaint dated 26.10.2022.

2. Since no adverse order is being passed against the respondents 2 to 5, notice to the respondents 2 to 5 is dispensed with.

3. The case of the petitioner is that she is the second wife of one Kandaswamy Gounder. Prior to the said marriage, the petitioner's husband executed a settlement deed dated 08.06.1976 in favour of respondents 2 and 3, who are none other than his daughters. Subsequently, the settlement deed dated 08.06.1976 executed in favour of the respondents 2 and 3 was cancelled vide cancellation deed dated 29.01.1992. Thereafter, he executed a Will dated 11.07.2002 allotting “A to J” schedule of the self acquired properties in favour of his legal heirs, in which “A to F” schedule properties were allotted in favour of the petitioner, late Subramami i.e., son of Kandaswamy Gounder and Arasuprakash i.e., Grandson of Kandaswamy Gounder. Subsequently, in



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the year 2004, said Kandaswamy Gounder passed away. Thereafter, the petitioner and the fourth respondent filed T.O.S.Nos.15 of 2006 and 34 of 2019 before this Court with regard to the subject proeprties, which is still pending. According to the petitioner, during the pendency of the aforesaid T.O.S., the Tahsildar, Ayanavaram, vide order dated 10.10.2013 mutated the names of respondents 2 to 5 and issued patta in their favour based on fraudulent documents. Alleging the fabricated unregistered Will created by the respondents 2 to 5, the petitioner made a complaint dated 26.10.2022 before the first respondent to take action against the respondents 2 to 5. Since the same was not considered, the present writ petition has been filed.

4. The learned counsel for the petitioner submits that though the T.O.S.No.15 of 2006 filed by the fourth respondent, who is none other than the wife of late Subramani and another T.O.S.No.34 of 2019 filed by the petitioner with regard to the subject property is pending before this Court, the Tahsildar, Ayanavaram mutated the revenue records and issued patta in favour of the respondents 2 to 5 based on the fraudulent un-registered Will created by the respondents 2 to 5. Hence



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this Court may direct the first respondent to consider and dispose of the complaint filed by the petitioner dated 26.10.2022 within the time frame that may be stipulated by this Court.

5. On the above contentions heard learned Government Advocate appearing for the first respondent and perused the materials placed on record.

6. Though it is the contention of the petitioner that pending the of aforesaid T.O.S instituted by the petitioner and the fourth respondent with regard to the subject property is pending before this Court, the Tahsildar, Ayanavaram mutated the revenue records and issued patta in favour of the respondents 2 to 5 based on the fraudulent un-registered Will created by the respondents 2 to 5, however, it is pertinent to note that the Will executed in favour of the petitioner and private respondents and the settlement deed executed by the said Kandaswamy Gounder in favour of the respondents 2 and 3 are subject matters of the T.O.S.Nos.15 of 2006 and 34 of 2019 pending before this Court.



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7. Be that as it may, the private respondents obtained Patta in their favour in the year 2013, however, the petitioner has chosen to file the T.O.S. as against the private respondents only in the year 2019 which is after a lapse of six years. Hence, the complaint filed by the petitioner is frivolous and if at all the petitioner has any grievance, she has to work out her remedy before the appropriate authority after the disposal of the T.O.S.Nos.15 of 2006 and 34 of 2019 pending before this Court.

8. With the above observation and reasons, this writ petition is dismissed. No costs.

09.06.2023

(rap)

Index : Yes/No

Speaking order / Non-speaking order

Neutral Citation Case : Yes/No

To

The Executive Magistrate / Thasildar,
Ayanavaram,
Chennai – 600 023.



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M.DHANDAPANI, J.

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