



W.P.No.18593 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2023

CORAM
THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.18593 of 2023
and
WMP.Nos.17831 & 17832 of 2023

A.Chenniammal

...Petitioner

Vs.

1. The District Collector,
Office of District Collector,
Erode District – 638 005.
2. The District Revenue officer,
Office of the District Revenue Officer,
Erode District – 638 005.
3. A.Chinnasamy
4. A.Subramani
5. A.Palanisami
6. S.Pappathi

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for records of the 2nd respondent dated 06.04.2022 in Na.Ka.6228/2019/A2 which culminated in the impugned proceedings of the 1st respondent in Mu.M.20637/2022/C4 dated 13.09.2022 and quash the same as illgeal and arbitrary and further direct the 1st respondent to cancel the partition deed dated 11.02.2014 registered Doc.No.1011/2014 on the file of the Joint I Sub-Registrar, Erode.



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For Petitioner : Ms.K.Indu Priya

For Respondents : Mr.P.Sathish, AGP, for R1 & R2

ORDER

This Writ petition has been filed seeking quashment of the proceedings of the 2nd respondent dated 06.04.2022 in Na.Ka.6228/2019/A2 which culminated in the impugned proceedings of the 1st respondent in Mu.M.20637/2022/C4 dated 13.09.2022 and to consequently, direct the 1st respondent to cancel the registered partition deed dated 11.02.2014 bearing Doc.No.1011/2014.

2. Mr.P.Sathish, learned Additional Government Pleader takes notice for the 1st and 2nd respondents. In view of the consent expressed by the Learned counsel appearing for either side, this petition is taken up for final disposal at the admission stage itself.

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



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4. The case of the petitioner is that the petitioner married one Ammasai and out of their wedlock they were blessed with four children, the private respondents herein. The petitioner's husband purchased the land comprised in R.S.No.173/8 measuring an extent of 1463 sq.ft., situated at Brahmana Periya Agraharam village, Erode and patta in Patta No.173 in respect of the said land was also issued in favour of the petitioner's husband and have subsequently built a thatched house in the same. While so, after the demise of the petitioner's husband, the private respondents herein by giving false assurances, made the petitioner to enter into partition with the private respondents in respect of the subject property, vide registered partition deed dated 11.02.2014 bearing Doc.No.1011/2014. Pursuant to the said partition, the private respondents refused to take care of the petitioner and she was not provided with any kind of financial assistance. Aggrieved by the above said action of the private respondents, the petitioner made a petition before the 2nd respondent seeking to cancel the partition dated 11.02.2014, upon receipt of which, the 2nd respondent, vide proceedings dated 06.04.2022 bearing Na.Ka.6228/2019/A2 dismissed the petitioner's petition and the subsequent appeal dated 08.07.21022 filed by the petitioner before the 1st respondent was also dismissed, vide order dated 13.09.2022.



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Challenging the said orders of the 1st and 2nd respondents, the petitioner has come up with this Writ petition.

5. Learned counsel for the petitioner submitted that the petitioner is a senior citizen and the private respondents herein are none other than the sons and daughter of the petitioner. Further, it is the duty cast upon the children to take care of their mother, while so, the private respondents, after grabbing the subject property from the petitioner by making false promises, chased away the petitioner from her house where she lived all these years which is not sustainable. While such being the case, both the 1st and 2nd respondents without considering the above facts have dismissed the petition and appeal filed by the petitioner which is illegal and arbitrary in nature. Hence, he submitted that, it would suffice, if this Court sets aside the orders of the 1st and 2nd respondents and consequently issue direction to the 1st respondent to cancel the registered partition deed dated 11.02.2014 bearing Doc.No.1011/2014.

6. On the above said contentions, heard learned Additional Government Pleader appearing for the 1st and 2nd respondents and perused the materials available on record.



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7. A perusal of the material documents placed on record particularly the partition deed dated 11.02.2014 reveal that, there is no specific condition in the said partition deed with regard to maintenance of the petitioner and a further perusal of the petition and appeal preferred by the petitioner reveal that, the petitioner had sought for only cancellation of the above said partition deed dated 11.02.2014 and for handing over of the possession of subject property and no maintenance was sought for by the petitioner, enabling the respondents to pass appropriate orders for maintenance. Hence, this Court is not inclined to interfere with the orders of the 1st and 2nd respondents impugned in this Writ petition.

8. Further, as the issue involved in the present Writ petition is purely civil in nature, the same cannot be entertained under Article 226 of the Constitution of India and same has to be ventilated only before the Civil court. Hence, the petitioner is at liberty to approach the competent civil court to workout the remedy in the manner known to law. If at all the petitioner is aggrieved by the act of the private respondents in not maintaining her, further liberty is granted to the petitioner to file appropriate application before the 2nd respondent seeking maintenance. Upon receipt of



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such application, the 2nd respondent shall consider the same on merits and in accordance with law and pass appropriate orders for maintenance as expeditiously as possible, after affording sufficient opportunity of personal hearing to both the parties.

9. Accordingly, this Writ Petition stands disposed of with the aforesaid directions. No costs. Consequently, connected Miscellaneous petitions are closed.

26.06.2023
(1/2)

skt

NCC : Yes / No
Speaking Order : Yes / No
Index : Yes / No

To

1. The District Collector,
Office of District Collector,
Erode District – 638 005.
2. The District Revenue officer,
Office of the District Revenue Officer,
Erode District – 638 005.

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skt

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WMP.No.17830 of 2023
in
W.P.No.18593 of 2023

M.DHANDAPANI., J.

Dispense with ordered for the
present.

26.06.2023
(2/2)

skt