



W.P.No.32886 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2023

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THE HON'BLE MR. JUSTICE P.VELMURUGAN

W.P.No.32886 of 2023
and W.M.P.No.32523 of 2023

ELIZABETH

... Petitioner

Vs.

1. THE DISTRICT COLLECTOR
ERODE DISTRICT.

2. THE REVENUE DIVISIONAL OFFICE
GOBICHETTIPALAYAM, ERODE DISTRICT.

3. THE TAHSILDAR
THALAVADI TALUK, ERODE DISTRICT.

4. THE TALUK HEAD SURVEYOR
THALAVADI TALUK, THALAVADI ERODE DISTRICT.

5. L. KULANTHAI RAJ

6. ANNAPOORANI

7. MALAR

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus forbearing the respondents 1 to 4 from interfering with peaceful possession and enjoyment except under the order of the Civil Court.



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For Petitioner : Mr.R.Vijayan
For Respondents : Mr.P.Gurunathan
Addl. Government Pleader for RR1 - 4

ORDER

This Writ Petition has been filed for issuance of Writ of Mandamus, forbearing the respondents 1 to 4 from interfering with peaceful possession and enjoyment of the subject property, except under the order of the Civil Court.

2. By consent of both the parties, this Writ Petition is taken up for final hearing at the admission stage itself.

3. Mr.P.Gurunathan, learned Additional Government Pleader takes notice for the respondents 1 to 4. Since there is no adverse order is being passed in this Writ Petition, as against the respondents 5 to 7, notice to the respondents 5 to 7 is hereby dispensed with.

4. It is the case of the petitioner that her father is the original



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owner of the subject property. He died intestate leaving behind the petitioner and her 3 sisters. The 1st sister of the petitioner, Mamani died and was survived by the respondents 5 to 7 herein. After the demise of the petitioner's father, she filed a suit in O.S.No.43 of 2015 against her 3 sisters, before the Sub Court, Sathyamangalam. The Court below passed an ex-parte preliminary decree and final decree dated 05.10.2018 and so far no appeal has been filed as against the said decree. Therefore, E.P.No.90 of 2023 was also filed and the same is pending before the Subordinate Court, Sathyamangalam. While so, the daughters of said Mamani, the respondents 5 to 7 herein applied before the Government Authorities 1 to 4, to survey and sub-divide the disputed property. They also filed a W.P.No.22192 of 2023 before this Court and this Court, by an order dated 19.06.2023, directed the authorities concerned to consider the representations/applications of the petitioners therein. Aggrieved by the above said illegality, the petitioner has filed the present Writ Petition for the relief stated supra.

5. Heard the learned counsel on either side and perused the



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materials available on record.

6. Admittedly, the said Civil Suit has been filed before the Sub Court, Sathyamangalam and an ex-parte preliminary decree was also passed 05.10.2018. On the strength of the preliminary decree, Execution Petition also filed and the same is pending before the Court below. Therefore, it is a matter of evidence and that the relief sought for in the present Writ Petition cannot be dealt with before this Court. When already the civil proceedings are pending, the petitioner cannot invoke the provisions of Article 226 of the Constitution of India, by way of a Writ Petition, parallelly.

7. In view of the above facts and circumstances and also the observations made, this Writ Petition stands dismissed. However, the petitioner is at liberty to work out the remedy, in the manner known to law. No costs. Consequently connected miscellaneous petition is closed.

24.11.2023

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Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No

To

1. THE DISTRICT COLLECTOR
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P.VELMURUGAN, J.,

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