



W.P.(MD) No.757 of 2020

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.03.2023

CORAM

THE HONOURABLE Ms.JUSTICE P.T.ASHA

W.P.(MD) No.757 of 2020

S.Vanaja Jeyavarthini

... Petitioner

/vs./

1.The District Revenue Officer,
Collectorate,
Theni.

2.The Revenue Divisional Officer,
O/o. the Revenue Divisional Officer,
Periyakulam,
Theni District.

3.A.K.Sahadevan

4.A.K.Karnan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records of the 1st respondent impugned order in Na.Ka.No.18678/2017/D4 dated 24.05.2018 and quash the same and further direct the respondents to permit the legal heirs of the father of the petitioner to get the awarded sum as per award No.16 in Na.Ka.No.



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49/2020/Si.MAA.VA.A (Ni.Ea.Thea.Ne) dated .12.2014 from the special DRO (Land Acquisition) for Dindigul Kumuly Road, NH 45E and 220 Theni.

For Petitioner : Mr.K.Anandan
For R1 & R2 : Mr.J.John Rajadurai
Government Advocate
For R3 & R4 : Mr.PTS.Narendravasan

ORDER

Aggrieved by the order of the first respondent passed in his proceedings in Na.Ka.No.18678/2017/D4 dated 24.05.2018, the petitioner has filed this writ petition seeking the issue of a Writ of Certiorarified Mandamus to quash the above order and to direct the respondents to permit the legal heirs of the father of the petitioner to get the awarded sum as per award No.16 in Na.Ka.No. 49/2010/Si.MAA.VA.A (Ni.Ea.Thea.Ne) dated Nil.12.2014 from the Special DRO (Land Acquisition) for Dindigul Kumuly road NH 45E and 220, Theni.

2.It is the case of the petitioner that the property comprised in S.No.1935/2, measuring an extent of 0.31.0 ars at Thamaraikulam Bit 2 Village assigning patta No.976 belongs to one Sinnamari Samuvel Nayagam, who inherited the same. The property in question was his ancestral property. On his death on 31.10.1949, the same devolved on his wife, Jeyabhakyam and she was in enjoyment of the



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same till her death on 03.04.1988. Thereafter, the same was inherited by her legal heirs, who are the writ petitioner and his sisters, S.Mary Jaesudas, W/o.Andiappan, aged about 81 years, Jeyagunavarthini, W/o.R.Joyal, aged about 79 years, Krishdi Aronrai, W/o.J.R.Aronrai, aged about 76 years and his brother, Mohan Victor, aged about 73 years. It is the petitioner's case that they were all enjoying the above property and are absolute, enjoyment and possession of the same.

3.While so, the petitioner had received an award passed by the Special DRO (Land Acquisition) addressed to his father and the respondents 3 and 4, who had been shown as the joint owners. The petitioner and the other legal heirs immediately verified the revenue records and to their shock, it was seen that the respondents 3 and 4 were included in the patta in the year 1994 along with the petitioner's father. It appears that they had fraudulently fabricated a sale deed as if they had purchased the lands comprised in this survey number from one Chinnathayammal, who had no right, title or interest to the property and on the basis of this fraudulent document, the title in the UDR had been mutated in their names.



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4.A petition was therefore presented by the petitioner and his sisters and his brother on 22.05.2015 before the Tahsildar, Periyakulam to delete the names of the respondents 3 and 4 from the revenue records. It was dismissed by the Tahsildar, Periyakulam vide his order dated 11.06.2015 without affording an opportunity to the petitioner and others to make their submissions. Therefore, an appeal was preferred to the second respondent. Once again, the second respondent had also without applying her mind independently dismissed the appeal. The second respondent had directed the petitioner to approach the Civil Court for their remedy, without considering the fact that the respondents 3 and 4 had not produced any evidence to show their possession of the suit schedule property. Further revision to the first respondent also ended in its dismissal and the confirmation of the order passed by the second respondent. Therefore, the above writ petition has been filed.

5.Heard the learned counsels appearing on either side.

6.A perusal of the impugned order would indicate that since there was serious dispute with reference to title, the parties had been directed to approach



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the civil Court. The report with reference to possession was also considered in the impugned order, in which the authority would hold that the petitioner has not proved his possession. Be that as it may, since the dispute relates to the title of the property, the remedy of the parties is only to approach the civil Court to have their title established. In fact, a reading of the impugned order passed by the first respondent would only indicate that the parties had been permitted to approach the civil Court and have their grievances redressed. It is needless to state that if the petitioner is advised to take further proceedings, the authority/Court concerned shall independently consider the evidence without being swayed by the observations made in the impugned order.

6. With the aforesaid observation and direction, the Writ Petition is disposed of. However, there shall be no order as to costs.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No

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P.T.ASHA, J.

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