



W.P.(MD)No.20512 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 15.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.20512 of 2013

and

M.P.(MD)No.1 of 2013

1. S.Kathirvelsamy (deceased)
2. K.Surya Pandiyan ... Petitioner
(2nd petitioner is substituted vide order
dated 20.02.2023 made in W.M.P.(MD)No.
6212 of 2018)

versus

1. The District Revenue Officer,
Madurai District.
2. The Revenue Divisional Officer,
Usilampatti,
Madurai District.
3. The Tahsildar,
Peraiyur,
Madurai District.
4. B.Sooriyanarayanan



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5. Rajeswari

... Respondents

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Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the impugned order in its proceedings dated 06.06.2013 passed by the 1st respondent in Na.Ka.No.36064/2011/G.2 and quash the same and further direct the respondents 1 to 3 to retain all the lands in the name of Sooriyanarayana Thevar and Pappammal under the old patta numbers.

For Petitioner : M/s.Rajaram

For R1 to R3 : Mr.G.V.Vairam Santhosh,
Additional Govt. Pleader

For R4 and R5 : Mr.M.Subash Babu,
Senior Counsel
for Mr.Ajay Ghose

ORDER

This writ petition is filed as against the order dated 06.06.2013 passed by the first respondent on the revision petition filed by the petitioner.



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2. The petitioner, having grievance as against the grant of patta in favour of the 5th respondent by the Tahsildar, Peraiyur, filed an appeal before the second respondent/the Revenue Divisional Officer, Madurai. The Revenue Divisional Officer, Madurai, by his proceedings dated 15.06.2009 dismissed the appeal preferred by the petitioner. As against the same, he preferred a revision petition before the first respondent/the District Revenue Officer, Madurai. The District Revenue Officer, by the impugned order dated 06.06.2013, has dismissed the revision petition filed by the petitioner and directed him to work out his remedy in the partition suit in O.S.No.644 of 2010 pending on the file of the Sub Court, Thirumangalam. Aggrieved over that, the petitioner has filed the present writ petition. Pending the writ petition, the petitioner died and subsequently, his son, one K.Surya Pandiyan, is impleaded as petitioner in this writ petition.

3. The learned counsel appearing for the petitioner submits that the properties originally belonged to one late Sooriyanarayana Thevar,



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father of the deceased writ petitioner, excepting the property in S.No. 78/2B of Sedapatti Village, which belonged to one late Pappammal, mother of the deceased writ petitioner. The 4th respondent, who is none other than the son of one late Baskaran and the said Baskaran is the younger brother of the deceased writ petitioner, has created a forged Will as if the said Pappammal had executed a Will dated 02.08.1993 in his favour. Based on that Will, Baskaran executed a sale deed in favour of the 5th respondent. Based on the said sale deed, the Revenue Officials has granted patta in favour of the 5th respondent. Aggrieved over that, the petitioner has preferred appeal and revision before the Revenue Authorities stating that the Will has not been probated and therefore, the said Will is not a valid one. The Revenue authorities, without considering the same, have confirmed the patta issued in favour of the fifth respondent. Therefore, the impugned order is liable to be interfered with.

4. The learned Senior Counsel appearing for the 4th and 5th



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respondents submits that the said Sooriyanaraya Thevar died on 30.06.1986. The properties originally belonged to the said Sooriyanarayana Thevar and his first wife Papammal. The said Papammal executed a Will in favour of the 4th respondent's father one Baskaran on 02.08.1993. Thereafter, the said Pappammal died on 16.08.1997 and the 4th respondent's father Baskaran also died on 15.06.2007. Based on the said Will, the 4th respondent sold the property to the 5th respondent on 20.02.2008 and patta was also transferred in the name of the 5th respondent. While so, the petitioner made an attempt to disturb the possession of the fifth respondent. Therefore, the fifth respondent filed a suit in O.S.No.116 of 2008 before the District Munsif Court, Thirumangalam, which was decreed in favour of the fifth respondent by the Judgment and Decree dated 25.07.2008. The 4th respondent has also filed a separate suit against the petitioner in O.S.No.171 of 2008 before the District Munsif Court, Thirumangalam, which was also decreed in favour of the 4th respondent on 19.01.2009. Further, the petitioner has also filed a partition suit



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and the same is pending before the Sub Court, Thirumangalam, in O.S.No.644 of 2010. Therefore, the petitioner has to work out his remedy only in the suit filed by him for partition.

5. This Court considered the rival submissions made and perused the materials placed on record.

6. The petitioner claims that he is also one of the legal heirs of the late Sooriyanarayana Thevar and therefore, he is also entitled for a share in the properties. However, the 4th respondent, with a forged Will, executed a sale deed dated 20.02.2008 in favour of the 5th respondent. The Revenue Authorities, without considering the validity of the Will, passed orders for transferring patta in the name of the 5th respondent.

7. Admittedly, the petitioner has filed a suit for partition before the Principal District Court, Madurai, as against the 4th respondent and



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others, in O.S.No.182 of 2005, which was transferred to the II Additional Sub Court, Madurai and renumbered as O.S.No.644 of 2010 and thereafter, it is now transferred to the Sub Court, Thirumangalam. Therefore, the petitioner has to work out his remedy in the partition suit in O.S.No.644 of 2010.

8. Considering the fact that the suit in O.S.No.644 of 2010 is pending from the year 2005, this Court, by order dated 20.02.2023, called for an explanation from the learned Sub Judge, Thirumangalam. Pursuant to the order of this Court dated 20.02.2023, the learned Judge has also submitted a report before this Court. This Court is not satisfied with the report and the manner in which the report has been filed.

9. The Courts have to give priority for the litigations which are pending for a longtime. From the report, it could be seen that there is no impediment for the trial Court to proceed with the suit in O.S.No.



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644 of 2010. However, the trial Court has not paid any attention for disposal of the case which is pending for a long time.

10. Considering the fact that the suit in O.S.No.644 of 2010, filed in the year 2005, is still pending without any progress, this Court directs the learned Sub Judge, Thirumangalam to dispose of the suit on day-to-day basis and dispose of the suit within a period of three months from the date of receipt of a copy of this order.

11. Accordingly, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

15.03.2023

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NCC : Yes / No.
Index : Yes / No.
Internet: Yes / No.



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To

1. The learned Sub Judge,
Sub Court,
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B.PUGALENDHI, J.

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