



W.P.(MD) No.1725 of 2020

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.03.2023

CORAM

THE HONOURABLE Ms.JUSTICE P.T.ASHA

W.P.(MD) No.1725 of 2020

and

W.M.P.(MD) Nos.1465 of 2020 and 11695 of 2022

VK Aravind

... Petitioner

/vs./

1.The District Revenue Officer,
Karur.

2.The Revenue Divisional Officer,
Karur.

3.The Special Tahsildar,
Land Survey and Settlement,
Karur.

4.Kowsalya

5.Chandrasekaran

6.Ramachandran

7.Prakash

... Respondents



W.P.(MD) No.1725 of 2020

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records of the 1st respondent herein in Na.Ka.No.C1/12137/2018 dated 08.03.2019 and quash the same.

For Petitioner : Mr.C.Mahadevan
For R1 to R3 : Mr.D.Ghandiraj
Special Government Pleader
For R4 to R7 : Mr.T.Antony Arulraj

ORDER

The above writ petition has been filed seeking issue of a Writ of Certiorari to quash the records of the first respondent in his proceedings in Na.Ka.No.C1/12137/2018 dated 08.03.2019.

2.It is the case of the petitioner that an extent of 1415 sq.mts., in TS.No.459 Block No.8 belongs to the family of the petitioner's vendor and others. They had a joint patta. The original owners were, Krishnan, Sellamuthu and Arumugam. After the death of Chellamuthu, his wife, Krishnaveni, sons, Jayapal Selvam, Sekar and Kamaraj and daughter, Kowsalya were enjoying the properties in common. Disputes arose between them and a suit for partition in O.S.No.265 of 1991 came to be filed, which was decreed on 18.08.1993. Thereafter, final decree proceeding in I.A.No.822 of 1993 was filed by Krishnan, who died pending the proceedings



W.P.(MD) No.1725 of 2020

and his legal representatives were brought on record. Thereafter, an Advocate Commissioner was appointed and the properties were divided by metes and bounds. Each of the sharers had started enjoying their respective shares by alienating the same. However, the fourth respondent to the writ proceedings had retained her 1/25th share in the entire property. The fourth respondent had wanted a higher value, which the petitioner was not willing to pay. Thereafter, the fourth respondent had executed a settlement deed dated 08.02.2018 in favour of her sons, who have been arrayed as respondents 5 to 7 herein. They, thereafter, moved the third respondent for grant of patta and ignoring the final decree, sub-division has been made in the names of the respondents 5 to 7, whose names have been included in the patta. The petitioner had preferred an appeal to the second respondent and the second respondent on coming to know that the suits were pending has cancelled the sub-division, which was effected without notice to the other joint patta holders and restored the entries to *status quo ante*.

3. Aggrieved by this order, the respondents 4 to 7 have filed a revision before the first respondent and the first respondent without application of mind has simply restored the order of the third respondent and directed the parties to



W.P.(MD) No.1725 of 2020

approach the civil Court. It is against this order that the petitioner is before this Court.

4.A counter affidavit has been filed by the first respondent stating that the dispute in question is with reference to title of property, which the respondents are not competent to decide and it is only for the civil Court to decide the title to the property.

5.Heard the learned counsels appearing on either side.

6.Admittedly, there a final decree has been passed and the parties have been allotted respective shares. It appears that in the settlement deed, an extent of 1830 sq.ft., has been settled by the fourth respondent. There is no reference to the partition suit. A perusal of the final decree proceedings in I.A.No.822 of 1993 in O.S.No. O.S.No.265 of 1991 would show that only the plaintiffs 2 and 3 had been allotted the eastern most 1/3rd share, which they were directed to take delivery through execution proceedings. Consequently, E.P.No.166 of 2000 was filed by the plaintiffs 2 and 3 and the fourth respondent herein though served did not enter



W.P.(MD) No.1725 of 2020

appearance and was called absent and set *ex parte*. Ultimately, the execution proceeding was allowed and the delivery was taken on 27.09.2004.

7. Therefore, *prima facie* it appears that the defendants have not been allotted specific shares and in this scenario, the partition, settlement and the allotment of specific share are questionable. As rightly held these are not issues that can be considered or fall within the jurisdiction of the revenue authorities and it is for the civil Court to decide the same.

8. In the light of the above, no orders can be passed in the writ petition, as there is a dispute with reference to the title and enjoyment of the respective properties. Therefore, the Writ Petition is dismissed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

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

17.03.2023



W.P.(MD) No.1725 of 2020

WEB COPY

To

- 1.The District Revenue Officer,
Karur.
- 2.The Revenue Divisional Officer,
Karur.
- 3.The Special Tahsildar,
Land Survey and Settlement,
Karur.



WEB COPY



W.P.(MD) No.1725 of 2020

P.T.ASHA, J.

mm

W.P.(MD) No.1725 of 2020

17.03.2023