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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.04.2023

CORAM

THE HONOURABLE MR.JUSTICE **C.V.KARTHIKEYAN**

W.P.(MD)No.5305 of 2023

Palaniyayee

... Petitioner

vs.

1.The District Collector,
Pudukottai District, Pudukottai.

2.The Revenue Divisional Officer,
Iluppur, Pudukottai District.

3.The Tahsildar,
Pannamaravathy Taluk, Pudukottai District.

4.Chinna Kannu (Deceased)
5.Ponnalagi

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the second respondent to consider the petitioner's appeal/representation, dated 06.09.2022 and to issue patta to the petitioner in respect of the property in S.No.309/8A, Jeeva Nagar Village and Post, Ponnamaravathy Taluk and Pudukottai district.



For Petitioner	:Mr.R.Balakrishnan
For R1 to R3	:Mr.N.Muthu Vijayan Special Government Pleader
For R4	:Died
For R5	:No Appearance

ORDER

The Writ Petition has been filed in the nature of a Mandamus seeking a direction against the second respondent/Revenue Divisional Officer, Iluppur in Pudukottai District to consider an appeal/representation, dated 06.09.2022 and issue patta tot the petitioner for property in S.No.309/8A, Jeeva Nagar Village and Post, Ponnamaravathy Taluk, Pudukottai District.

2.Heard Mr.R.Balakrishnan, learned Counsel for the petitioner, Mr.N.Muthu Vijayan, learned Special Government Pleader for the respondents 1 to 3.

3.In the affidavit filed in support of this Writ Petition, it had been stated that the aforementioned property measuring 11 cents originally belonged to the father of the petitioner Karuppiah. He had also constructed a house. It had been stated that the petitioner is the only legal heir. The father had also executed a Will bequeathing the property



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to the petitioner herein. Since the father had died, the Will had come into force.

4.It had also been stated that the fourth and fifth respondents, who are neighbors, attempted to interfere with the peaceful possession and that the petitioner filed O.S.No.17 of 1999 before the District Munsif cum Judicial Magistrate, Thirumayam, seeking declaration of title and injunction. It had been stated that the suit had been decreed on 17.12.1999. Thereafter, the petitioner had sought patta for the land. However, the land had been classified as Adidravidar Natham. In this connection, the petitioner had given a representation on 06.09.2022 and thereafter, filed the present Writ Petition.

5.Notice had been directed to the fourth and fifth respondents herein. The notice had been returned with respect to the fourth respondent that the fourth respondent had died and the notice had been served on the fifth respondent on 28.03.2023. The petitioner claims that the fourth respondent is her own neighbour and had still impleaded him though he had already died.



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6.I am deeply conscious that this order has been passed in spite of the fact that the fourth respondent had died, he no semblance of right, title or interest and need not have been made party to the Writ Petition at all. The decree obtained would not give any right to the petitioner herein, as none of the first, second or third respondents are made parties to the civil suit. If the petitioner claims patta and places reliance on a decree of a Civil Court, then any one of the first, second and third respondents should have been made party defendants to the Civil Suit.

7.The petitioner had conveniently filed a suit against the fourth and fifth respondents and then obtained an *ex parte* decree. It is also seen that the petitioner had still impleaded the fourth respondent herein, though as a neighbour, the fact that he had died should be known to the petitioner.

8.Even otherwise, the learned Special Government Pleader had forwarded the instructions received and it is seen that the petitioner has possessed a house, which is termed as “Periya Tharsu Veedu” at S.No. 309/8A3 measuring 0.25.0 ares. She also has landed properties, which



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details have also been given and which measures 1 acre and 4 cents. The petitioner has sufficient lands and the present property, for which she claims patta is classified as Gramanatham.

9.The petitioner had suppressed all these facts in her affidavit. She had suppressed the fact that she has a house. She had suppressed the fact that she is entitled to land of 1 acre and 4 cents. She had also suppressed the fact that the fourth respondent had actually died, but had still impleaded the fourth respondent as a respondent in the present Writ Petition. The Writ Petition has to necessarily fail on the basis of the arguments advanced by the learned Special Government Pleader.

10.The Writ Petition stands dismissed. No costs.

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

19.04.2023

cmr



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2.The Revenue Divisional Officer,
Iluppur, Pudukottai District.

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C.V.KARTHIKEYAN, J.

cmr

Order made in
W.P.(MD)No.5305 of 2023

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