



W.P.(MD) No.6795 of 2020

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.03.2023

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THE HONOURABLE Ms.JUSTICE P.T.ASHA

**W.P.(MD) No.6795 of 2020
and
W.M.P.(MD) Nos.6193 and 6194 of 2020**

Kavitha

... Petitioner

/vs./

- 1.The District Collector,
Collector's Office,
Sivagangai District.
- 2.The District Revenue Officer,
District Collectorate,
Sivagangai.
- 3.The Revenue Divisional Officer,
Revenue Divisional Officer's Office,
Devakottai,
Sivagangai District.
- 4.The Tahsildar,
Taluk Office,
Devakottai Taluk,
Sivagangai District.



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5.The Taluk Surveyor,
Devakottai Taluk,
Sivagangai District.

6.Karmegam

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records relating to the impugned order dated 28.02.2020 passed in Pa.Mu.Pi1/29020/19 on the file of the 2nd respondent herein and quash the same.

For Petitioner : Mr.K.Rajeshwaran

For R1 to R5 : Mr.D.Ghandiraj
Special Government Pleader

For R6 : Mr.P.R.Prithiviraj

ORDER

This writ petition has been filed for the issue of a Writ of Certiorari calling for the records relating to the impugned order dated 28.02.2020 passed in Pa.Mu.Pi1/29020/19 on the file of the second respondent and quashing the same.

2.The facts, which have preceded the filing of the above writ petition, are herein below alluded to:-



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3.It is the petitioner's case that the lands comprised in S.No.1/4A1, measuring an extent of 0.31.30 ares (patta No.1951) and S.No.1/4A2, measuring an extent of 0.15.70 ares (patta No.1952) at Semanenthal @ Mullikundu Village, Sirumaruthur Group, Devakottai Taluk, Sivagangai District were the ancestral properties of one Athmanathan. The said Athmanathan was leading a wayward life and deserted his family. It was his wife, Chithradevi, who was managing the family, which consists of Athmanathan's children, Palanikumar, Uma and Vanmeehi and she was also maintaining the properties.

4.It appears that Chithradevi had filed a suit O.S.No.171 of 1993 for partition on the file of the District Munsif Court, Devakottai against Athmanathan. On 16.09.1994, the suit was decreed and a final decree came to be passed on 20.06.2000. In the final decree, item 1 in the 'C' schedule property was allotted to Palanikumar, Uma and Vanmeehi. This property was purchased by the petitioner under a registered sale deed dated 10.06.2013 from the said Palanikumar. Uma, the other sharer, had executed a registered sale deed dated 25.09.2012 in favour of one Ambika Velu. Vaanmeehi and Ambika Velu,



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according to the petitioner, had orally sold their shares to the petitioner, as a result of which the petitioner was in possession and enjoyment of the property. She had put up a shed thereupon fencing the same. The petitioner would submit that she had obtained electricity service connection and the patta had also been transferred in her name. Thereafter, the petitioner had rented out the premises to the Tamil Nadu State Marketing Corporation (TASMAC).

5.In this backdrop, the petitioner was shocked to learn that one Karmegam had instituted a suit O.S.No.131 of 2012 against the petitioner's vendor and without notice to the petitioner, a decree has been passed in his favour. It is his statement that his vendor, Palanikumar and Karmegam had colluded and obtained the decree. Thereafter, on coming to know about the above proceedings, the petitioner has filed a suit O.S.No.139 of 2018 on the file of the Sub Court, Devakottai against the respondents 1, 4, 6 and others and the sixth respondent herein is contesting the same.

6.It appears that the sixth respondent had applied for patta before the third respondent suppressing the earlier rejection of his request for grant of patta by the



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fourth respondent. The third respondent even without issuing a notice to the petitioner, by order dated 26.09.2019, had transferred the patta in the name of the sixth respondent. Against this order, the petitioner has filed a review petition before the third respondent in the month of October, 2019. The fourth respondent ignoring the pendency of this review petition is proceeding post-haste to transfer the patta in favour of the sixth respondent. Therefore, the petitioner had filed W.P. (MD) No.27063 of 2019 to direct the third respondent to consider the review petition within a stipulated time.

7.The said writ petition was disposed of on 19.12.2019 giving liberty to the review petitioner to go before the second respondent and the second respondent was directed to entertain the petition without reference to limitation. Therefore, the petitioner had filed a review petition before the second respondent and withdrawn the revision petition before the third respondent on 21.12.2019. The second respondent was also pleased to grant an interim stay on 23.12.2019 staying the order of the third respondent. The matter was posted to 29.01.2020, on which date, the sixth respondent had filed his counter. On the said date, the second respondent has received the written arguments and adjourned the matter.



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The petitioner was under the impression that he would receive communication regarding the personal hearing. However, to her shock, she was served with the impugned order dated 28.02.2020 passed in Pa.Mu.Pi1/29020/19 in and by which the second respondent has rejected the review petition. Challenging the said order, the petitioner is before this Court.

8.Heard the learned counsels on either side.

9.The primary argument of the petitioner is that order has been passed without proper hearing, which is in violation of principles of natural justice. However, a perusal of the affidavit and the counter filed by the sixth respondent, it is clearly evident that the suit O.S.No.139 of 2018, in which title is the issue, is pending between the parties before the Sub Court, Devakottai. Therefore, the parties shall await the result of the suit and thereafter make necessary applications in keeping with the judgment to be passed by the civil Court.



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10. With the above direction, the Writ Petition is disposed of. 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

29.03.2023

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To

1. The District Collector,
Collector's Office,
Sivagangai District.
2. The District Revenue Officer,
District Collectorate,
Sivagangai.
3. The Revenue Divisional Officer,
Revenue Divisional Officer's Office,
Devakottai,
Sivagangai District.
4. The Tahsildar,
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5.The Taluk Surveyor,
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P.T.ASHA, J.

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