



W.P.(MD) No.8413 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.04.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.8413 of 2021

and

W.M.P.(MD) Nos.6340 to 6342 of 2021

D.Nirmala

.. Petitioner

Vs.

- 1.State of Tamilnadu,
Rep., by District Collector,
Virudhunagar District,
Virudhunagar.
- 2.Revenue Divisional Officer,
Aruppukottai,
Virudhunagar District.
- 3.Tahsildar,
Aruppukottai,
Virudhunagar District.
- 4.Aruppukottai Municipality,
Aruppukottai,
Rep., by its Commissioner.
- 5.Sub-Registrar,
Aruppukottai, Virudhunagar District.



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6.K.Gokul

7.S.Subbulakshmi

8.J.Seethalakshmi

9.T.R.Dhinakaran

10.T.R.S.Vijayaram

.. Respondents

***[R10 – impleaded vide order dated 03.04.2023 made in
W.M.P.(MD) No.19683 of 2022 in W.P.(MD) No.8413 of 2021]***

Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records in 2020/26/06/000574SD TR dated 06.09.2020 of the fourth respondent for Ward G Block 11 T.S.No.24 measuring HC 1.10.4 and to quash the same and to direct the respondents 1 to 4 to include the petitioner's name for Ward G Block 11 T.S.No. 24 measuring HC 1.10.4, Aruppukottai Municipality.

For Petitioner	:	Mr.T.S.R.Venkata Ramana Senior Counsel
For RR1, 2, 3 & 5	:	Mr.T.Amjadkhan Government Advocate
For R4	:	Mr.N.Dilipkumar Standing Counsel
For RR6 to 8	:	Mr.S.Parthasarathy
For R10	:	Mr.V.Balaji



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ORDER

This writ petition has been filed seeking the issue of a writ of certiorarified mandamus, calling for the records of the fourth respondent with regard to his proceedings dated 06.09.2020, quash the same and direct respondents 1 to 4 to include the petitioner's name in the patta in respect of Ward 'G', Block No.11, T.S.No.24 measuring an extent of 1.10.4 Hectares, Aruppukottai Municipality, Virudhunagar District.

2. It is the case of the petitioner that she is the owner of the property vide registered gift deed dated 06.03.2013 executed by her husband, the ninth respondent. She would submit that her husband put up a shed, which was assessed by the fourth respondent-Municipality in his name. She had taken possession of the property, after the execution of the gift deed and is in enjoyment of the same. The property in question was the ancestral property of her husband and his name has been registered in the settlement land register for Aruppukottai Town. The petitioner would submit that her husband has been in open,



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continuous and hostile possession against everybody including respondents 5 to 7 for over 40 years.

3. Meanwhile, a relative of the petitioner's husband T.R.S.Vijairam had petitioned the first respondent to include the names of the petitioner's husband's siblings and their heirs in respect of T.S.No.24, Aruppukottai. This request was forwarded to the second respondent and after due enquiry, the second respondent had dismissed the petition and therefore, it is the case of the petitioner that the respondents are estopped from denying this fact. Though the petitioner's husband had gifted the property to her and she is in possession, she has not got the revenue records mutated in her name. Thereafter, the petitioner had taken steps to change the patta for T.S.No.24 from her husband's name to her name, since she wants to put up construction on the said land. The SLR was therefore downloaded and on perusal of the same, the petitioner came to realise that the total holding of her husband (1.10.4 Hectares) had been reduced by an alleged TR dated 06.09.2020 to an extent of 0.44.16 Hectares. The balance extent has been transferred in the name of one



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Gokul, Subbulakshmi and Seethalakshmi. These transfers had taken place after the gift deed was registered in her name. The petitioner would submit that no notice has been issued either in the name of her husband or in her name. Therefore, she has come forward with the writ petition on hand.

4. The tenth respondent has filed a petition for vacating the injunction in which he has stated that the property in question belongs to one T.Ramasamy Nayakkar, who had five sons by name T.R.Jeyaraman, T.R.Subburaj, T.R.Dhinakaran, the 9th respondent herein (petitioner's husband), T.R.Varatharajan and T.R.Kannan. On 02.09.1958, a registered partition deed was executed in and by which all the five male heirs were granted equal rights in the ancestral joint family. The tenth respondent is the son of T.R.Subburaj, who had died on 14.04.1986. After the death of the grandfather and father on 14.04.1986, the entire joint family properties were enjoyed by the tenth respondent's family members as per their shares under the registered partition deed. However, the ninth respondent appears to have clandestinely obtained a patta on 07.11.2002



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by suppressing the family partition. Therefore, a joint representation was submitted on 05.09.2005 by all the members of the joint family requesting the District Revenue Officer, Virudhunagar District, to cancel the patta issued to the ninth respondent. The said representation was dismissed on the ground that a civil suit in O.S.No.41 of 2004 was pending on the file of the District Court, Srivilliputhur, which was filed by the female heirs of T.Ramasamy Nayakkar. On the basis of this fraudulently obtained patta and the rejection of the 10th respondent's representation, the ninth respondent had executed a gift settlement deed in favour of his wife.

5. The tenth respondent would further submit that the writ petition has been filed by the ninth respondent suppressing the material facts. The petitioner has not mentioned the family partition deed dated 02.09.1958, cancellation of patta in the name of the petitioner's husband on account of the pendency of O.S.No.41 of 2004 on the file of the District Court, Srivilliputhur, the Will executed by Ramasamy Nayakkar dated 26.02.1973 in favour of his five sons and the arbitration award



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passed by the Arbitrator. The petitioner has also not deemed it fit to implead the tenth respondent. Therefore, the tenth respondent had stepped into file the impleading petition.

6. The parties would submit that there is a comprehensive suit pending in O.S.No.22 of 2018 on the file of the Additional District Court, Virudhunagar. In the light of the above discussion and the fact that the comprehensive suit is pending, this Writ Petition is disposed of with a direction to the parties to await the result of the suit in O.S.No.22 of 2018 on the file of the Additional District Court, Virudhunagar. As and when the suit is heard, the application can be renewed afresh. Necessary application for effecting the rectification in the patta may be made then. No costs. Consequently, connected miscellaneous petitions are closed.

03.04.2023

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NCC : Yes/No

Index : Yes/No

Internet : Yes

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P.T.ASHA, J.

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To

- 1.The District Collector,
Virudhunagar District,
Virudhunagar.
- 2.The Revenue Divisional Officer,
Aruppukottai,
Virudhunagar District.
- 3.The Tahsildar,
Aruppukottai,
Virudhunagar District.
- 4.The Commissioner,
Aruppukottai Municipality,
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- 5.The Sub-Registrar,
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