



W.P.(MD) No.8086 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.03.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.8086 of 2020

and

W.M.P.(MD) No.7513 of 2020

Sivagami

.. Petitioner

Vs.

1.The District Revenue Officer,
Tiruchirappalli.

2.The Sub Collector and
Revenue Divisional Officer,
Musiri.

3.The Tahsildar,
Musiri.

4.M.Santhalingam

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records of the impugned order in டி.மு.ஆ6/21940/2019 dated 28.04.2020 on the file of the 1st respondent and quash the same as illegal, incompetent and without jurisdiction and consequently direct the



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respondents to maintain the patta in the name of the petitioner and her children as ordered by the 2nd respondent in the proceedings dated 26.12.2018 in Na.Ka.No.ஆ4/1533/2018.

For Petitioner : Mr.H.Lakshmi Shankar
For RR1 to 3 : Mr.T.Amjadkhan
Government Advocate
For R4 : Mr.R.Maheswaran

ORDER

This writ petition is filed for following relief:

“For the issue of a Writ of Certiorarified Mandamus calling for the records of the impugned order in ஸி.மு.ஆ6/21940/2019 dated 28.04.2020 on the file of the 1st respondent and quash the same as illegal, incompetent and without jurisdiction and consequently direct the respondents to maintain the patta in the name of the petitioner and her children as ordered by the 2nd respondent in the proceedings dated 26.12.2018 in Na.Ka.No.ஆ4/1533/2018.”

2. It is the case of the petitioner that five cents of land in S.No.214 of Serugudi Village, Musiri Taluk has been assigned in favour of her



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husband Karuppaiya under proceedings dated 30.08.1969. The assignment was granted for the purpose of constructing a house. In keeping with the terms of the assignment, a house was also constructed by the petitioner's husband. Thereafter, he had left the family and for over 30 years, there has been no news about him. The petitioner and her four children are living in the said house.

3. While so, the petitioner came to learn that the fourth respondent who is none else than the petitioner's husband's brother had clandestinely got the patta mutated in his name on 28.06.2013. On learning about the same, the petitioner has filed an appeal before the second respondent. The petitioner would submit that not only the assignment was granted in her husband's name in 1969, but it had also not been cancelled to date and the change effected without considering the actual possession of the property is totally erroneous. That apart, the petitioner's husband's brother has another property and the mutation of patta in the name of the fourth respondent is illegal. The petitioner would submit that her appeal before the second respondent was allowed and challenging the same, the



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fourth respondent had filed a revision before the first respondent. He had also threatened to dispossess the petitioner which prompted her to file a suit in O.S.No.171 of 2019 for a declaration and injunction. When this suit was pending, the first respondent has proceeded to hear the revision and pass orders allowing the same and directing the patta to be granted to the fourth respondent. It is challenging this order that the petitioner is before this Court.

4. Heard the learned counsel on either side.

5. The case on hand indicates serious dispute with reference to the title and further, the same is the subject matter in O.S.No.171 of 2019 on the file of the District Munsif's Court, Musiri. Admittedly, the petitioner is the direct legal representative of the original assignee Karuppaiya and the patta continued to remain in his name till the same was changed on the application of the fourth respondent. It appears that proper enquiry regarding the possession of the property in question has not been held, since it is the petitioner who is the legal heir of the said Karuppaiya is in



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possession of the property along with her children. That apart, once there is a serious contest with reference to the title, the first respondent ought not to have passed any orders and should have deferred the proceedings till the result of the suit. Therefore, this Writ Petition is allowed, the impugned order is set aside directing the first respondent to await the result of the suit. No costs. Consequently, connected miscellaneous petition is closed.

28.03.2023

NCC : Yes/No

Index : Yes/No

Internet : Yes

abr

To

- 1.The District Revenue Officer,
Tiruchirappalli.
- 2.The Sub Collector and
Revenue Divisional Officer,
Musiri.
- 3.The Tahsildar,
Musiri.



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P.T.ASHA, J.

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