



WP(MD)No.10589 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.04.2023

CORAM

THE HONOURABLE MS.JUSTICE P.T.ASHA

WP(MD)No.10589 of 2020

S.Dhanalakshmi

... Petitioner

Vs.

1.The District Registrar,
Kumbakonam,
Thanjavur District.

2.The Sub Registrar,
Thiruvudaimarudhur,
Thanjavur District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the second respondent to restore and register the settlement deed which was returned on 15.06.2020 with regard to property in S.No.47/2B2 to an extent of 26 cents (78 Kuli) situated at Srinivasanallur Village, Kumbakonam Taluk, Thanjavur District.



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For Petitioner : Mrs.G.Gomathi Sankar
For Respondents : Mr.M.Prakash,
Additional Government Pleader

ORDER

The petitioner seeks a mandamus to the respondents to take on file and register the settlement deed which was returned on 15.06.2020.

2. The facts require for disposal of the writ petition is briefly set out herein below.

2.1. The petitioner would submit that the property comprised in S.No.47/2 measuring an extent of 3 acres and 30 cents situate at Srinivasa Nallur Village belonged to her grandfather, who was in possession and enjoyment of the same. During the life time of her grandfather, one Chinnavel Padayachi has been attempting to interfere with his peaceful possession and enjoyment of the above land and also questioned his title. The said Chinnavel Padayachi has filed a suit in OS.No.193 of 1974 on the file of the District Munsif Court,



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Valangaiman, which was dismissed. As against the said dismissal, the said Chinnavel Padayachi has filed AS.No.78 of 1977 on the file of the Sub Court, Kumbakonam, which has also ended in dismissal. Finally, the petitioner has moved this Court in SA.No.918 of 1979 which has also been dismissed clearly giving out that the said Chinnavel Padayachi had no right or title to the suit property.

2.2. While so, the Revenue Department appears to have wrongly included the name of a third party along with the name of the petitioner's grandfather and issued a joint Patta to the third party. Aggrieved by the above, the petitioner's brother Ramakrishnan had made a representation dated 10.03.2014 before the Revenue Authority demanding deletion of the name of the third party from the Patta. There was no response, which constrained the petitioner's brother to file WP.No.7328 of 2014 on the file of this Court. This Court passed an order directing the Revenue Authority to consider the representation of the petitioner's brother and pass orders. Accordingly, the Revenue Authority had enquired the petitioner's brother and the third party and thereafter, deleted the third



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party's name from the Patta and issued Patta in the name of the petitioner and her siblings.

2.3. The above said property was subdivided into S.Nos.47/2B1 and 47/2B2, wherein, S.No.47/2B2, measuring an extent of 3 acres and 12 cents was assessed in the name of the petitioner and her siblings. S.No.47/2B1, measuring an extent of 18 cents stood in the name of one Arivarasu and Saratha. The mutation of the revenue records in the names of Arivarasu and Saratha was challenged by the petitioner's brother by submitting a representation to the District Collector, Dindigul District. Once again, the petitioner's brother was constrained to file WP.No.15056 of 2019 before this Court and this Court was pleased to direct the District Collector to consider the representation. While the representation was pending before the District Collector, taking advantage of the fact that the Patta stood in their name, the third party had created forged documents in respect of S.No.47/2 and attempted to interfere with the petitioner's peaceful possession and enjoyment. This constrained the petitioner, her brother and others to file a suit in O.S.No.183 of 2014 on



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the file of the Principal District Munsif Court, Kumbakonam against one Kalayarasu, Malarvizhi, Sadagopan, Ponnappa Traders and the respondents herein for an injunction. This suit is pending. Subsequently, Malarvizhi has filed a suit in O.S.No.14 of 2018 against the petitioner, her siblings and the respondents herein for an injunction. This suit is also pending. The petitioner's siblings in turn have filed a partition suit in O.S.No.93 of 2015 on the file of the Principal District Munsif Court, Thanjavur. Thereafter, two suits were filed and have been dismissed as not pressed.

2.4. The petitioner would submit that now misunderstanding has arisen between herself and her husband and therefore, she wants to execute a settlement deed in favour of her brother in respect of the property comprised in S.No.47/2B2. The petitioner would submit that she has purchased the stamp papers and it was submitted before the second respondent for registration. However, the same was returned by the Authorities stating that since there is a dispute with reference to the title, the same cannot be registered. Hence, the writ petition.



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3. Heard the learned counsels on either side.

4. Even going by the affidavit filed by the petitioner in support of the writ petition, there appears to be issues with reference to the title to the property and there is also a suit for partition pending apart from the other suits filed by the rival claimants. Therefore, the impugned order does not suffer from any infirmity.

5. Therefore, in the circumstances and in the interests of justice, the writ petition is dismissed. The petitioner shall establish her title to the property through the suits pending before the trial Court. It is needless to state that once the petitioner's right to the property, which is subject matter of the settlement deed is declared, it is well open to her to once again knock at the doors of the Authorities. No costs.

05.04.2023

NCC:Yes/No

Index:Yes/No

Speaking/Non-speaking order

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To

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P.T.ASHA, J.

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