



W.P(MD)No.12042 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 31.10.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.12042 of 2022

and

W.M.P.(MD)Nos.8565 and 19758 of 2022

Rukmani

... Petitioner

Vs.

1.The Revenue Divisional Officer,
Narasingampatti, Melur,
Madurai District.

2.The Zonal Deputy Tahsildar,
Kottampatti,
Madurai District.

3.M.Mangairkarasi

4.M.Muthukuar

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for records relating to the impugned order made by the 1st respondent in NE.MU.No.2931/2020/A1 dated 09.05.2022 and quash the same as illegal.



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For Petitioner : Mr.M.Mahaboob Athiff

For Respondents : Mr.V.Nirmal Kumar,
Government Advocate for R1 & R2.
Mr.S.Kanagarajan for R4.

ORDER

Heard both sides.

2.The case on hand pertains to property comprised in S.Nos.84/11B2 and 84/12 in Pathinettankudi village, Melur Taluk. The property was purchased by a partnership firm known as “Pandian Rubber Industries”. There were four partners namely, Ganesan, Meenakshi Sundaram, Nagarajan and Subramanian. There was reconstitution of the partnership firm later. I need not go into the said details for the present. In the year 2011, the patta was mutated in favour Rukmani. Rukmani, the petitioner herein purchased the property from the legal heirs of Ganesan vide sale deed dated 19.01.2011. Questioning the same, the fourth respondent / Muthukumar who is son of Meenakshi Sundaram



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filed appeal before the Revenue Divisional Officer, Melur. The Revenue Divisional Officer, Melur set aside the order passed by the Zonal Deputy Tahsildar, Kottampatti and restored the name of Pandian Rubber Industries. Challenging the same, this writ petition came to be filed.

3.I heard the learned counsel on either side at length. My hands are tied by the order dated 01.07.2014 made in W.P.(MD)No.19487 of 2013. The said writ petition was filed by Thiru.K.Subramanian, who was one of the partners of Pandian Rubber Industries and the legal heirs of other partners. The challenge was to the order dated 22.04.2011 passed by the Zonal Deputy Tahsildar, Kottampatti mutating patta in favour of the writ petitioner. The writ petition was dismissed in the following terms:-

“8. It is the case of the petitioner that since the property belongs to the first petitioner and three other persons, each of whom are having 1/4th share. But I find that the property was purchased in the name of the partnership firm Pandian Rubber Industry. But, it is the case of respondents 7 and 8, since the firm could not be run profitably, the firm was dissolved and at the time of



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dissolution the first petitioner, Meenakshi Sundaram and Nagarjan have relieved themselves from the partnership firm and the property vested with the Managing partner Ganesan and therefore, the other three partners have no right over the property, from the date of dissolution. Hence, as the absolute owners of the property, the respondents 5 and 6, who are the legal heirs of the Managing Partner Ganesan sold the property in favour of the 7th respondent. Thereafter, the 7th respondent got patta transferred in her name. The learned counsel also brought to the notice of the Court the recitals made in the dissolution deed dated 31.08.1977, and the statement made by one of the Partner Meenakshi Sundaram in the Written Statement filed in the suit filed by Dena bank, in support of his contention that except Thiru.Ganesan other three partners have no right in the property after the dissolution of the partnership firm. But the petitioners are denying the said submissions. Hence, in my considered opinion, there are disputed questions of facts involved in this case. If there is any disputed questions of facts involved, then the same cannot be adjudicated in the Writ Petition, since in the Writ Petition this Court cannot conduct any roving enquiry. Therefore, I am of the opinion that since there are disputed questions of facts involved in this case, it is for the petitioner to approach the Civil Court as against the



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impugned order passed by the Zonal Deputy Tahsildar, and the writ is not a remedy. Therefore, this Writ Petition is liable to be dismissed.”

4. When once this Court had relegated the parties to go before the Civil Court as against the impugned order passed by the Zonal Deputy Tahsildar, the third respondent herein erred in invoking the jurisdiction of the Revenue Divisional Officer, Melur. The Revenue Divisional Officer, Melur had passed the impugned order dated 09.05.2022 in favour of the contesting private respondents without taking note of the earlier dated 01.07.2014 in W.P.(MD)No.19487 of 2013. It is relevant note to here that Revenue Divisional Officer, Madurai was very much a party to W.P.(MD)No.19487 of 2013.

5. In this view of the matter, the order impugned in this writ petition is set aside and the writ petition is allowed. The private respondents are very much having liberty to move the jurisdictional Civil Court for establishing their rights over the petition mentioned property. If any suit is filed by the contesting private respondents within a period of four weeks from the date of receipt of a copy of this order, the same



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will be numbered by the jurisdictional Civil Court immediately. I
consciously refrain from making any further observation. No costs.
Consequently, connected miscellaneous petitions are closed.

31.10.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:-

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G.R.SWAMINATHAN, J.

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