



W.P.(MD)No.16380 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 07.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.16380 of 2014

and

M.P.(MD)No.2 of 2014

S.P.Muthuramalingam

... Petitioner

versus

1. The Revenue Divisional Officer,
Tiruchirapalli Division,
Tiruchirapalli.

2. Tahsildar,
Tiruchirapalli East,
Tiruchirapalli.

3. Magdalene Femina Rani

4. Mary Antoinette Nirmala Rani

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorari, to call for the records comprised in Na.Ka.No.A7/8600.2014 dated 14.08.2014 and quash the same as being contrary the provisions of the Tamil Nadu Patta Pass



W.P.(MD)No.16380 of 2014

Book Act, 1983.

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For Petitioner : Mr.Raguvaran Gopalan
For R1 and R2 : Mr.S.Shaji Bino,
Special Govt. Pleader
For R3 and R4 : Mr.M.Saravanan

ORDER

This writ petition is filed as against the order of the first respondent/the Revenue Divisional Officer, Tiruchirapalli, dated 14.08.2014. By the impugned order, the first respondent/the Revenue Divisional Officer, ordered for removing the petitioner's name in the joint patta issued by the Tahsildar, for the land in Survey No.1 (old survey No.19/4) situated at Block No.16, Sengulam Village, Trichy East Taluk, by referring the Judgment and Decree dated 24.12.1997 passed by the Sub Court, Trichy, in O.S.No.18 of 1990.

2. The case of the petitioner is that on 02.04.1987, he entered into a sale agreement with respondents 3 and 4 and their brother one Jeraldin Rozario, for purchase of the property in T.S.No.1, Old Survey



W.P.(MD)No.16380 of 2014

No.19/4A, situated at Block No.16, Sengulam Village, Trichy East Taluk. The said property originally belonged to one Nambikkai Mary and since she was a spinster, she executed a registered Will dated 16.05.1977 bequeathing her properties to the children of her brother Anthonisami Pillai. The respondents 3 and 4 and one Jeraldin Rozario Soundarajan are the children of the said Anthonisami Pillai. The said Nambikkai Mary died on 23.12.1982 and thereafter, the Will came into effect. Based on the said Will, the respondents 3 and 4 and their brother Jeraldin Rozario Soundarajan entered into the sale agreement with the petitioner and based on the sale agreement dated 02.04.1987, he is in possession of the property and has also put up construction on the property.

3. According to the petitioner, the sale price was fixed at Rs.5,17,222/- for the entire extent of the property and he paid a sum of Rs.1,39,230/- towards advance amount in various installments and the sale deed was supposed to be executed upon obtaining probate of the



W.P.(MD)No.16380 of 2014

Will dated 16.05.1977. While so, the respondents 3 and 4, in collusion with their brothers Jeraldin Rozario Soundarajan and Xavier Chandrarajan, executed a purported Will of Nambikkai Mary dated 16.03.1981, in which, the property, which was subject matter of the sale agreement, was allotted to the share of Xavier Chandrarajan. Since they failed to execute the sale deed, he filed a suit in O.S.No.18 of 1990 before the Subordinate Court, Trichy, for specific performance. In the meanwhile, the respondents 3 and 4 and their brothers have filed a probate petition in O.P.No.8 of 1990 before the District Court, Trichy, which was transferred to the Subordinate Court, Trichy and renumbered as O.P.No.5 of 1990, wherein, probate was ordered on 04.02.1991. Based on the order of probate, the said Xavier Chandrarajan filed a suit in O.S.No.51 of 1992 before the Subordinate Court, Trichy, for partition as against respondents 3 and 4 and Jeraldin Rozario Soundarajan. The suits in O.S.No.18 of 1990 and O.S.No.51 of 1992 were taken up together and the trial Court, while dismissing the suit in O.S.No.18 of 1990, decreed the suit in O.S.No.51 of 1992 by



W.P.(MD)No.16380 of 2014

common Judgment and Decree dated 24.12.1997. As against the Judgment and Decree dated 24.07.1997, the petitioner preferred an appeal suit in A.S.No.234 of 1999. He has also preferred a petition in O.P.No.26 of 1998 before the Sub Court, Trichy, to recall the order dated 04.02.1991. While so, the first respondent/Revenue Divisional Officer, by the order impugned in this writ petition, ordered for removing the petitioner's name in the joint patta issued by the Tahsildar. Aggrieved over that, the present writ petition has been filed.

4. The learned counsels appearing on either side submit that as against the Judgment and Decree dated 24.12.1997 passed in O.S.No. 18 of 1990, the petitioner preferred an appeal suit in A.S.No.234 of 1999 and the same is still pending before this Court. The learned counsel further submit that the petition in O.P.No.26 of 1998 filed by the petitioner was dismissed by the Sub Court, Trichy, by Judgment and Decree dated 30.10.2018, against which, the petitioner has also preferred C.M.A.(MD)No.576 of 2019, which is also pending before



W.P.(MD)No.16380 of 2014

this Court. Hence, they request this Court to keep this writ petition pending for adjudication of other proceedings, which are pending before this Court.

5. This Court considered the rival submissions and perused the materials placed on record.

6. The petitioner's name was added in the joint patta, issued by the Tahsildar, based on a sale agreement and on the objections raised by 3rd and 4th respondents, the first respondent/the Revenue Divisional Officer, Tiruchirapalli, by the impugned order dated 14.08.2014, ordered for removing the name of the petitioner in the joint patta issued by the Tahsildar, by relying upon the Judgment and decree dated 24.12.1997 passed by the Sub Court, Trichy, in O.S.No.18 of 1990.

7. It appears that as against the Judgment and Decree dated 24.12.1997 passed in O.S.No.18 of 1990, the petitioner preferred an



W.P.(MD)No.16380 of 2014

appeal suit in A.S.No.234 of 1999 and the same is pending before this Court.

8. Since the appeal suit is pending between the parties in A.S.No.234 of 1999, the petitioner has to work out his remedy before the Appellate Court. Further, this Court, under Article 226 of the Constitution of India, cannot go into the issue regarding title of property and cannot pass any further order as to whether the petitioner is having right to hold joint patta or not.

9. Accordingly, the writ petition is disposed of with liberty to the petitioner to work out his remedy before the Appellate Court. No costs. Consequently, connected miscellaneous petition is closed.

07.03.2023

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NCC : Yes / No.
Index : Yes / No.
Internet : Yes / No.



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W.P.(MD)No.16380 of 2014

B.PUGALENDHI, J.

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