



W.P.(MD)No.19899 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 28.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.19899 of 2014

and

M.P.(MD)No.1 of 2014

S.Kalaivani

... Petitioner

versus

1. The District Collector,
Sivagangai District,
Sivagangai.
2. The Revenue Divisional Officer,
Devakottai,
Sivagangai District.
3. The Tahsildhar,
Thiruppathur,
Sivagangai District.
4. The Zonal Deputy Tahsildhar,
(Singampunari Zone),
Thiruppathur Taluk,
Sivagangai District.
5. Vasantha Kumari (died)



W.P.(MD)No.19899 of 2014

(R5 is impleaded vide order dated 05.06.2015
in M.P.No.1 of 2015)

6. Karthiyayini
(R6 is impleaded vide order dated 28.03.2023
in W.M.P.(MD)No.5382 of 2023)

... Respondents

Writ Petitions filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records of the impugned order dated 21.10.2014 in R.T.R.No.2195/1 and R.T.R.No.2195/1A on the file of the 4th respondent and quash the same and consequently direct the respondents to restore the earlier possession of the patt Nos.3712, 2490.

For Petitioner	: Mr.A.Prasanna Rajadurai
For R1 to R4	: Mr.G.V.Vairam Santhosh, Additional Government Pleader
For R5	: No appearance
For R6	: Mr.K.Sekar

ORDER

This writ petition is filed as against the order dated 21.10.2014, in and by which, the 4th respondent has ordered for a joint patta in the name of the petitioner's mother and sister also, namely, 6th respondent and 7th respondent.



W.P.(MD)No.19899 of 2014

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2. The disputed property originally belonged to one Chandran, father of the petitioner. The petitioner claims that her father had executed a Will in her favour and on the strength of the Will, she approached the Revenue Authorities and patta was also transferred in her name. The 7th respondent, sister of the petitioner, had filed a suit for partition before the Sub Court, Sivagangai, in O.S.No.142 of 2010, wherein, a preliminary decree was passed in her favour, by disbelieving the Will relied upon by the petitioner. As against the preliminary decree passed by the trial Court, the petitioner has also preferred an appeal before District Court, Sivagangai, in A.S.No.25 of 2014, which was transferred to the IV Additional District Court, Madurai and renumbered as A.S.No.2 of 2015. Now, the grievance of the petitioner is that while the appeal suit is pending, the 4th respondent has wrongly ordered for a joint patta in the name of 6th and 7th respondents also. Aggrieved over the same, the present writ petition is filed.



W.P.(MD)No.19899 of 2014

3. The learned counsel appearing for the petitioner submits that the 4th respondent has passed the impugned order pending the appeal suit. The petitioner is having a good case in the appeal suit. Therefore, the impugned order is liable to be set aside.

4. The learned counsel appearing for the 6th and 7th respondents submits that the petitioner has relied on the Will dated 16.03.2005, which was disbelieved by the trial Court in O.S.No.142 of 2010 and a preliminary decree was also passed by allotting 1/3rd share to the 7th respondent. Based on the preliminary decree, the Revenue Officials have issued joint patta and therefore, there is no reason to interfere with the impugned order passed by the 4th respondent.

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

6. The petitioner has approached this Court as against the order



W.P.(MD)No.19899 of 2014

of the 4th respondent for issuing a joint patta in the name of the petitioner as well as 6th and 7th respondents. The 7th respondent has already filed a suit in O.S.No.142 of 2010 before the Sub Court, Sivangagai, seeking the relief of partition, wherein, a preliminary decree was passed, by allotting 1/3rd share to the 7th respondent. It appears that the revenue officials have transferred the patta as joint patta, pursuant to the preliminary decree passed in O.S.No.142 of 2010. In view of the appeal suit preferred by the petitioner, final decree proceedings could not be completed.

7. Considering that the Appeal Suit in A.S.No.2 of 2015 is also pending before the IV Additional District Court, Madurai, this writ petition is disposed of by giving liberty to the petitioner to work out her remedy in the appeal suit preferred by her.

8. Considering that the Appeal Suit filed in the year 2014 is still kept pending for several years, the IV additional District Court,



W.P.(MD)No.19899 of 2014

Madurai, is directed to conclude the appeal suit in A.S.No.2 of 2015, within a period of four months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

28.03.2023

ogy

NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

To

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W.P.(MD)No.19899 of 2014

B.PUGALENDHI, J.

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W.P.(MD)No.19899 of 2014

28.03.2023