



W.P.(MD)No.1234 of 2015

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :23.02.2023

CORAM

THE HONOURABLE MR.JUSTICE K. KUMARESH BABU

W.P.(MD)No.1234 of 2015
and
M.P.(MD).Nos.1 & 2 of 2015

Manickam

... Petitioner

Vs.

1.The District Collector,
Madurai District.

2.The Revenue Divisional Officer,
Madurai.

3.The Tahsildar,
Madurai East Taluk,
Madurai District.

4.The Head Surveyor,
Madurai East Taluk,
Madurai District.

5.Vijayavasanth

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India
praying for issuance of Writ of Mandamus, forbearing the respondents from



W.P.(MD)No.1234 of 2015

converting his agricultural land situated in Survey No.39/4A, Kalikappan Bit-I Village, Madurai East Taluk, Madurai District comprised in Survey No.39/4A measuring to an extent of 0.28.00 hectares into house sites.

For Petitioner :Mr.A.Rahul

For Respondents :Mr.M.Prakash
Additional Government Pleader for R1 to R4

:Mr.R.Sundar Srinivasan for R5

ORDER

This writ petition has been filed seeking for a mandamus, forbearing the respondents from converting his agricultural land situated in Survey No.39/4A, Kalikappan Bit-I Village, Madurai East Taluk, Madurai District comprised in Survey No.39/4A measuring an extent of 0.28.00 hectares into house sites.

2.The case of the petitioner is that the aforementioned land belongs to his father Irulappan Servai and after his demise, he has been in possession of the property and has been cultivating the same by raising plants. He would also submit that his father had left behind the petitioner's



W.P.(MD)No.1234 of 2015

WEB COPY

mother, fifth respondent and three sisters with the petitioner. He would submit that there has been no partition of the property and that he has been raising crops in the said land. However, during the third week of December, without notice to the petitioner, the fourth respondent had come to survey the lands and on enquiry, it was found that they are trying to plot out the property. He would submit that the lands are rich agricultural lands having Ayacut facilities from Pudukkula Kanmai and therefore, the fifth respondent cannot as a matter of right claim it as his own land and used it as his property. Hence, he would pray this Court to grant the relief as sought for.

3. Countering his arguments, learned counsel for the fifth respondent would submit that even during the life time of the petitioner's father, his father had executed various settlement deeds in favour of his legal heirs namely, his mother, the petitioner and his three sisters and that they have all been in possession of their respective properties. He would further submit that the claim of the petitioner is that no partition has taken place is false. He would further submit that he had approached the concerned authorities for the mutation of the revenue records based upon



W.P.(MD)No.1234 of 2015

the settlement deed. Hence, he would also submit that the petitioner had suppressed all the material facts involved in this writ petition. Hence, he prays to dismiss this petition.

4.The learned Additional Government Pleader would submit that if the fifth respondent had approached the revenue authority for mutation of the revenue records and only for which, the revenue authorities have gone to survey the land.

5.I have considered the rival submission made on either side.

6.The petitioner on the allegation that the property has not been partitioned, has filed this writ petition. The statements of the fifth respondent claims title by the settlement deed executed by his father. The specific averments that has been made by the fifth respondent in his affidavit, which has been filed as early as in the year 2016 and served upon the counsel for the petitioner in April 2016, and no rejoinder affidavit has been filed stating that there has been no settlement deed executed by the



W.P.(MD)No.1234 of 2015

petitioner's father.

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7.I am of the view that the petitioner had approached this Court by suppressing the material facts and trying to obtain favourable orders. He had been successful from the year 2015 in preventing the fifth respondent from enjoying his property.

8.In view of the aforesaid reasons, I do not any merit in this writ petition and the same is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

23.02.2023

NCC :Yes/No
Internet :Yes/No
Index : Yes / No
sbn



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W.P.(MD)No.1234 of 2015

K.KUMARESH BABU, J.

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