



WP(MD)No.7920 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 29.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD).No.7920 of 2014 and
MP(MD) No.1 of 2014

S.Vairamani

... Petitioner

Vs

1.The District Revenue Officer,
Madurai District,
Madurai.

2.The Revenue Divisional Officer,
Usilampatti,
Madurai District.

3.Prabakaran
4.Shivasankar

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Ceriorari, to call for the records pertaining to the impugned order passed by the first respondent in his proceedings in Na.Ka.No.G2/32039/2013, dated 26.12.2013 and quash the same.



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For Petitioner : Mr.K.K.Samy
For R1 & R2 : Mr.J.K.Jeyaselvan
Government Advocate
For R3 & R4 : No appearance

ORDER

This writ petition is filed as against the order of the District Revenue Officer, Madurai in Na.Ka.No.G2/32039/2013, dated 26.12.2013.

2.The impugned order has been passed on the revision petition filed by the third respondent herein (Prabakaran) as against the order of the Revenue Divisional officer, Usilampatti, dated 20.02.2011.

3.The learned counsel appearing for the petitioner submits that the disputed property in S.No.386 to an extent of 1.20 cents, in Nakkalmpatti Village, Usilampatti Taluk, Madurai originally belongs to one Meenakshiammal. The said Meenakshiammal died intestate in the year 1986, leaving behind her two sons and two daughters, namely Sivanandi, Sundarrajan, Vairakkal and Sivanthammal as her legal heirs.



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The petitioner herein is the wife of one Sundarrajan, who is one of the legal heirs of the deceased Meenakshiammal. One Prabakaran, the third respondent herein has approached the Tahsildar, Usilampatti in the strength of a sale deed, which was executed by the fourth respondent, the son of Sivanandi one of legal heirs of Meenakshiammal. On 20.07.2000, the Tahsildar, issued a joint patta in the name of Prabakaran (R3) and Sundarrajan (the petitioner's husband and one of the legal heir of Meenakshiammal) and Sivanandi (one of the legal heirs of Meenakshiammal). Challenging the same, the petitioner has preferred an appeal before the Revenue Divisional Officer in No.8635/2008/A2 and the Revenue Divisional Officer by his order dated 20.02.2011 has set aside the order of the Tahsildar and cancelled the joint patta issued by the Tahsildar on 20.07.2000. Aggrieved over the same, the fourth respondent herein has filed a revision petition before the District Revenue Officer and the District Revenue Officer has restored the order of the Tahsildar, considering the registered sale deed dated 10.04.2000 in document No.803/2000.



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4.The learned counsel further submits that the petitioner's husband, namely Sundarrajan is also one of the legal heirs of Meenakshiammal. Therefore, he is also entitled for 1/4th share in the subject property by way of oral partition among the family members. Portion of Vairakkal and Sivanthammal were also given to Sundarrajan and therefore, the petitioner's husband is having a share of 3/4 in the disputed property. Sivanandi, one of the son of Meenakshiammal is also having 1/4 share in the property in the subject property and he is having four legal heirs. The fourth respondent, namely Shivasankar, the son of Sivanandi is also having 1/4th share in the property. The said Shivasankar has executed a sale deed in Document No.803/2000, dated 10.04.2000 in favour of the third respondent and by referring that document, the revenue officials wrongly issued the patta in the name of the third respondent.

5.Today(29.03.2023), when this writ petition is taken up for hearing, the learned Government Advocate appearing for respondents



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submits that the petitioner is not having any *locus standi* to challenge the order of the first respondent that the subject property belong to one Sundarrajan, the husband of the petitioner. Hence, the petitioner's husband ought to have filed this petition. Instead, it was filed by the petitioner and therefore, this writ petition is liable to be set aside. The claim of the petitioner with regard to the other shares of Vairakkal and Sivanthammal is based on oral partition, which cannot be accepted without any basis.

6. There is no representation for the respondents 3 & 4.

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

8. Admittedly, there is dispute among the legal heirs of one Meenakshiammal with regard to the property in Survey No.386 to an extent of 1.20 cents, in Nakkalmpatti Village, Usilampatti Taluk,



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Madurai. None of the parties have approached the civil Court for partition. The fourth respondent herein, namely one Shivasankar, the son of Sivanandi, who is one the legal heirs of Meenakshiammal has executed a sale deed in favour of the third respondent (Prabakaran) in the year 2000 vide Patta No.803/2000. The revenue officials, without ascertaining the right of the fourth respondent in executing the sale deed issued a patta in the name of the third respondent and the same was challenged by the petitioner in an appeal before the Revenue Divisional Officer in No.8635/2008/A2 and the Revenue Divisional Officer by his order dated 20.02.2011 has set aside the order of the Tahsildar and cancelled the joint patta issued by the Tahsildar on 20.07.2000, against which, the fourth respondent herein has filed a revision petition before the District Revenue Officer and the District Revenue Officer has restored the order of the Tahsildar.

9. There is a dispute among the family members and none of them have approached the civil Court for partition. Therefore, this Court



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is inclined to set aside the orders passed by the first and second respondents enabling the petitioner and the respondents 3 & 4 to approach the appropriate civil Court to get their respective shares in the subject property by filing a partition suit.

10. Accordingly, this Writ Petition is allowed. The order of the District Revenue Officer, Madurai in Na.Ka.No.G2/32039/2013, dated 26.12.2013 and the order of the Revenue Divisional Officer, Usilampatti in Ne.Mu.No.8635/2008/A2, dated 20.02.2011 are hereby set aside. The parties are at liberty to work out their remedy before the appropriate civil Court. No costs. Consequently, connected Miscellaneous Petition is closed.

29.03.2023

NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

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B.PUGALENDHI, J.

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