



W.P(MD)No.6835 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 08.09.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.6835 of 2015

and

M.P.(MD)No.1 of 2015

B.Chandrababha

... Petitioner

Vs.

1.The District Revenue Officer,
Ramanthapuram District,
Ramanthapuram.

2.The Revenue Divisional Officer,
Ramanathapuram.

3.The Tahsildar,
Ramanathapuram.

4.D.Sethubaskaran

5.Chamundeeswari

6.D.Palanirajan

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus,



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calling for the records of the 1st respondent in his proceedings No.Pa.Mu.34371/2103 (B6) dated 23.05.2014 and to quash the same and direct the respondent to carry out the mutation of revenue records in favour of all legal heirs of the Late Duraisami Pillai, pending disposal of the suit for partition.

For Petitioner : Mr.K.K.Senthilvelan

For Respondents : Mr.D.Gandhiraj,
Spl. Government Pleader for R1 to R3.
Mr.V.Nagarajan,
For Mr.G.Vidhya Maheswaran for R4 & R6.
No appearance for R5.

ORDER

Heard the learned counsel for the writ petitioner, the learned Special Government Pleader for the respondents 1 to 3 and the learned counsel for the respondents 4 and 6. Though the fifth respondent has been served, she has not chosen to enter appearance.

2.The writ petitioner as well as the private respondents are children of Late.Duraisamy Pillai. The case of the petitioner is that her name was



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left out while effecting mutation of patta. She therefore submitted a petition before the District Collector, Ramanathapuram. The petition was forwarded to the jurisdictional Revenue Divisional Officer. The Revenue Divisional Officer, Ramanathapuram sustained the claim of the petitioner. Questioning the order dated 23.05.2013 passed by the Revenue Divisional Officer, Ramanathapuram, the private respondents filed revision before the District Revenue Officer, Ramanathapuram. The District Revenue Officer, Ramanathapuram vide order dated 23.05.2014, set aside the order of the Revenue Divisional Officer and allowed the revision petition filed by the private respondents. The District Revenue Officer took the view that since the petitioner had already filed a partition suit in O.S.No.47 of 2012 on the file of the District Court, Ramanathapuram, she should only pursue her remedy before the Civil Court. He also felt that since alienations have taken in the meanwhile, the clock cannot be put back after 32 years. Challenging the said order, the present writ petition has been filed.

3.The learned counsel for the writ petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and



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called upon this Court to set aside the impugned order and grant relief as prayed for.

4.The learned Special Government Pleader for the official respondents as well as the learned counsel for the contesting respondents submitted that the impugned order does not deserve to be interfered with and they pressed for dismissal of the writ petition.

5.I carefully considered the rival contentions and went through the materials on record. There is no dispute that the petition mentioned properties originally belonged to Duraisamy Pillai. The petitioner and the private respondents are the legal heirs of the said Duraisamy Pillai. The petitioner is of course right in her contention that her name could not have been left out while effecting mutation in the revenue record and she ought to have been made as joint pattadarar. But then, as rightly pointed out by the learned counsel for the contesting respondents and the learned Special Government Pleader, this claim should have been raised in time. The petitioner after her marriage had left the family of her birth and had raised the dispute after a lapse of 32 years. During this period, the



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mother of the petitioner as well as her siblings have sold many of the properties. The learned counsel for the contesting respondents would state that the purchasers have in turn resold the properties. In these circumstances, as rightly observed by the District Revenue Officer, the clock cannot be put back.

6.It is seen that the petitioner filed a partition suit in O.S.No.47 of 2012 before the District Court, Ramanathapuram. The learned District Judge dismissed the suit insofar as alienated items are concerned and decreed the suit insofar as the unsold items are concerned. This submission is made by the learned counsel for the petitioner. The copy of the decree has not been made available. The petitioner is said to have filed A.S.No.181 of 2022 before this Court. It appears that the private respondents have not filed any appeal questioning the preliminary decree passed in favour of the petitioner.

7.The petitioner name has to be entered in the revenue record as joint pattadar in respect of which the preliminary decree has been passed in her favour in the pending suit. The order impugned in this writ



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petition is interfered to this limited extent. The petitioner is permitted to submit an application before the Tahsildar, Ramanathapuram by enclosing a copy of the preliminary decree. The Tahsildar will issue notice to the private respondents herein and other interested persons, if any. Thereafter, the Tahsildar will pass an order in consonance with the order now passed. The entire shall be completed as expeditiously as possible.

8.This writ petition is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

08.09.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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