



W.P(MD).No. 9747 of 2015

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.02.2023

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.P(MD)No.9747 of 2015

and

M.P(MD) Nos.1 and 2 of 2015

Poonkodi

..... Petitioner

- Vs-

1. The District Revenue Officer,
Theni District,
Theni.

2. The Revenue Divisional Officer,
Uthamapalayam,
Theni District.

3. The Thasildar,
Bodinayakkanur Taluk,
Theni District.

4. Kondammal

5. Seeniammal

6. Velammal

7. Nagammal

8. Selamallan

... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating with the order of second respondent 31.01.2015 made in Na.Ka.No.2416/2014/A4 and quash the same as it is illegal and in consequence directing the second respondent to change the patta No.2111 in the petitioner's name, with regard to the property measuring 0.14.0 Ares, comprised in R.S.No.324/6 in Mela Sokkanathapuram Village, in Bodinayakkanur Taluk in Theni District.

For Petitioner : Mr.R.Suriya Narayanan

For Respondents : Mr.M.Prakash
Additional Government Pleader
For R1 to R3

: Mr.R.Aravindan For 5 to R7

ORDER

This Writ Petition has been filed seeking to quash the order passed by the second respondent, dated 31.01.2015 and consequently, to direct the second respondent to change the Patta No.2111 in the name of the petitioner with regard to the property measuring an extent of 0.14.0 Ares in R.S. No.324/6 at Mela Sokkanathapuram Village, Bodinayakkanur Taluk, Theni District.



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2. Heard Mr.R.Suriya Narayanan, learned counsel appearing for the petitioner, Mr.M.Prakash, learned Additional Government Pleader appearing for the respondents 1 to 3 and Mr.R.Aravindan, learned counsel appearing for the respondents 5 to 7.

3. The case of the petitioner is that the petitioner is the absolute owner of the property in R.S.No.324/6 at Mela Sokkanathapuram Village, Bodinayakkanur Taluk, Theni District. She had purchased by way of registered sale deed, dated 24.11.2006. The said property originally belonged to one Onnappa Goundar and the vendor of the petitioner had purchased the said property from his male descendants under the registered sale deed, dated 22.02.2013 and got a patta in her name in Patta No.2111. After the purchase made by the petitioner, the petitioner had sought for transfer of patta in her name. The third respondent herein, without application of mind and without any notice to the petitioner, had transferred the patta in the name of the petitioner, but included the names of the female heirs of the original owners viz., respondents 4 to 7, who have no title or right over the property.



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4. Being aggrieved against the same, the petitioner had preferred an appeal before the second respondent herein. The second respondent, without considering the case of the petitioner, had held that the sale deed executed by the male legal heirs of the original owner to be a invalid document and that had directed to issue patta in favour of the legal heirs of the Onnappa Goundar who was the original owner.

5. The learned counsel for the petitioner filed a Memo dated 20.01.2023 stating that the fourth respondent died. The said Memo is recorded.

6. Countering his arguments, the learned counsel appearing for the respondents 5 to 7 would submit that it is an admitted case that the property belonged to Onnappa Goundar and that had not sold the property in favour of the vendor of the petitioner. While that being so, the same executed by the male descendants, namely, brothers cannot be valid in the eye of law and therefore, there is no infirmity in the order passed by the respondents 2 and 3 and therefore, he would pray to reject the writ petition.



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7. The learned Additional Government Pleader appearing for the respondents 1 to 3 would submit that the petitioner's vendor had purchased the property from the male descendants only who had no absolute right or interest excluding female heirs of the Onnappa Goundar. Therefore, he would submit that there is no error or infirmity in the order passed by the respondents 2 and 3.

8. I have considered the rival submissions made by the learned counsel on either side.

9. It is the admitted fact that the property originally belonged to one Onnappa Goundar and after his demise, the petitioner's vendor, namely, Gunasundari had purchased the property from the male descendants of the said Onnappa Goundar and had also mutated the revenue records in her name. There has been no objection whatsoever from any other persons claiming through Onnappa Goundar. The petitioner had purchased the property from the said Gunasundari based upon the registered sale deed, and thereafter, had made an application to mutate the revenue records in her name. The third respondent had included the names of the female



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descendants of Onnappa Goundar without notice to the petitioner. This itself, in my view, is an infirmity that had occurred.

10. The petitioner, who exhausting her appellate remedy, had approached the second respondent. The second respondent had gone one step ahead of the third respondent and had held that the sale deed executed by the male descendants in favour of the Gunasundari, itself invalid. Therefore, the petitioner would not derive any title and to direct the mutation of revenue records in the name of the legal heirs of the deceased Onnappa Goundar.

11. This, in my view, is an absurdity committed by the second respondent. If at all the respondents 5 to 7 were aggrieved against the sale deed by executed by her brothers in favour of Gunasundari, they ought to have challenged before the appropriate civil Court, which they have not been done. At this length of time, their right to file a civil suit is also barred by limitation. While that being so, the revenue authorities viz., respondents 2 and 3 are trying to create the title by holding that the sale executed by the male descendants of the Onnappa Goundar is illegal.



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12. In view of the above said findings, the order impugned in the writ petition is liable to be set aside and this Writ Petition is allowed and a direction is issued to the third respondent to mutate the revenue records in the name of the petitioner. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

20.02.2023

NCC: Yes / No

Index : Yes / No

Internet : Yes / No

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To

1. The District Revenue Officer,
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Theni.
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K.KUMARESH BABU, J.

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Order made in
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