



W.P.(MD)No.3388 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :21.03.2023

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.(MD)No.3388 of 2016
and
W.M.P.(MD).No.2985 of 2016

M.Veeraputhiran

... Petitioner

Vs.

1.The District Collector,
Trichy, Trichy District.

2.The District Revenue Officer,
Trichy, Trichy District.

3.The Revenue Divisional Officer,
Musiri, Trichy District.

4.Vanathan

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records relating to the impugned order in Na.Ka.Aa.6/13871/2014, dated 13.11.2015 issued by the 2nd respondent and quash the same and consequently direct the second respondent reconsidered appeal dated 26.05.2014 submitted by the petitioner on merits.



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For Petitioner :Mr.S.Karthik

For Respondents :Mrs.D.Farjan Ghousia
Special Government Pleader for R1 to R3

:Mr.R.Murali for R4

ORDER

The petitioner assails an order dated 13.11.2015 of the second respondent by which the petitioner's request dated 26.05.2014 was rejected.

2. The petitioner states that the properties in the survey numbers listed in paragraph No.2 and admeasuring 1.33.5 acres in the aggregate originally belonged to his grand father. According to the petitioner, his father and brother entered into an oral partition in respect thereof. Thereafter, it is stated that the petitioner's father further sub divided the property and obtained patta Nos.555, 569, 901, 960, 812 in his name. By relying upon a settlement deed dated 10.05.2010 in his favour, the petitioner's states that he is entitled to a separate patta by substituting his name instead of his father's name.



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3. Learned counsel for the petitioner submits that there is no title dispute as between the petitioner and the fourth respondent in respect of the land for which separate patta was issued in his father's name. Therefore, learned counsel submits that the impugned order is liable to be set aside and that the matter should be remanded to the second respondent for reconsideration.

4. On the contrary, learned Special Government Pleader invited my attention to the impugned order and pointed out that the second respondent examined the status of the property during the pre-UDR period and the status as per the UDR. She pointed out that Survey No.240/7 consisting of 2.04 acres was sub divided as Survey Nos.240/7A to 240/7K in the UDR and that pattas were issued in the names of several persons as indicated in internal page 5 of the impugned order. By taking note of these aspects and the fact that ancestral lands were divided on the basis of an oral partition, she submitted that the second respondent concluded that the contesting parties were unable to establish the documentary basis on which



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the lands were divided. Therefore, she pointed out that the second respondent directed the parties to approach the jurisdictional civil court. In the facts and circumstances, learned Special Government Pleader submits that the impugned order does not suffers from any infirmity.

5. Learned counsel for the fourth respondent points out that there is a dispute between the parties with regard to the division of the 2.40 acres constituting the pre sub divided Survey No.240/7.

6. From the representation dated 26.05.2014, it is evident that the alleged ancestral properties comprised in Survey No.237/3, 237/5, 238/3, 240/7 and 246 were divided on the basis of an oral partition. Apart from the settlement deed dated 10.05.2010 and the pattas, no other documents of title have been placed on record. By taking note of the dispute between the parties with regard to the division of original survey No.240/7, the second respondent concluded that the parties were unable to establish the documentary basis on which the partition was effected. Consequently, the second respondent directed the parties to approach the jurisdictional civil



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court. In these facts and circumstances, the conclusion of the second respondent in the impugned order that there is no documentary basis for the division of property is reasonable. Therefore, the impugned order does not contain any infirmity and does not call for interference.

7. Learned counsel for the petitioner, however, urged that the dispute is confined to Survey No.240 and that the petitioner's request also covered survey numbers in respect of which separate patta was issued to his father. As regards these lands, he makes a request for leave to reapply. By granting leave to the petitioner to reapply as regards lands in respect of which a separate patta was issued to his father, W.P.(MD).No.3388 of 2016 is disposed of. If such separate application is filed by the petitioner, the same should be considered after putting all interested parties on notice. There shall be no order as to costs. Consequently, connected W.M.P. (MD).No.2985 of 2016 is closed.

21.03.2023

NCC :Yes/No
Internet :Yes/No
Index :Yes/No
sbm

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To

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SENTHILKUMAR RAMAMOORTHY, J.

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