



W.A.Nos.2538 & 2539 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE DR. JUSTICE A.D. MARIA CLETE

W.A.Nos.2538 & 2539 of 2024

and

C.M.P.Nos.18147 & 18148 of 2024

M.Muthukumar

... Appellant
in both Writ Appeals

Vs.

1.The Revenue Divisional Officer,
O/o. the Revenue Divisional Officer,
Anna Salai,
Tiruvannamalai – 606 601.

2.The Tahsildar,
Taluk Office,
Anna Salai,
Tiruvannamalai – 606 601.

3.Kamal Chand Jain

... Respondents
in W.A.No.2538 of 2024

1.The Revenue Divisional Officer,
O/o. the Revenue Divisional Officer,



W.A.Nos.2538 & 2539 of 2024

Anna Salai,
Tiruvannamalai – 606 601.

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2.The Tahsildar,
Taluk Office,
Anna Salai,
Tiruvannamalai – 606 601.

3.Naresh Chand Jain

... Respondents
in W.A.No.2539 of 2024

Prayer in W.A.No.2538 of 2024 :- Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 07.09.2022 in W.P.No.23938 of 2022 on the file of this Court.

Prayer in W.A.No.2539 of 2024 :- Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 06.09.2022 in W.P.No.23817 of 2022 on the file of this Court.

For Appellant	:	Mr.S.Vediyappan in both Writ Appeals
For R1 and R2	:	Mr.A.Selvendran Special Government Pleader in both Writ Appeals
For R3	:	M/s.G.A.Girija Venkataraman in both Writ Appeals



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COMMON JUDGMENT

(Judgment was delivered by **S.S. SUNDAR, J.**)

Writ Appeal in W.A.No.2538 of 2024 is directed against the order of the learned Single Judge dated 07.09.2022 in W.P.No.23938 of 2022. Writ Appeal in W.A.No.2539 of 2024 is directed against the order of the learned Single Judge dated 06.09.2022 in W.P.No.23817 of 2022.

2. These two writ petitions are in respect of two different parcels of the same property, in which, the appellant as well as his brother are claiming exclusive right over the property. It is not in dispute that the appellant and the vendor of the 3rd respondent are brothers. The 3rd respondent in the respective Appeals have purchased a small portion of the property from the appellant's brother. Pursuant to the sale deed obtained by the 3rd respondent in the respective Appeals, mutation had taken place and the name of the 3rd respondent was also included in the joint patta.



WEB COPY 3.The case of the appellant is that the property was originally purchased by his father Mr.K.R.S.Manicka Mudaliar in the name of his first wife, the mother of 3rd respondent's vendor. The appellant claims to be the son of the said K.R.S.Manicka Mudaliar through his second wife. A suit was also filed by the appellant along with his mother in O.S.No.56 of 1997 before the Additional Sub Court, Tiruvannamalai, which was later re-numbered as O.S.No.83 of 2017 before the Mahila Court, Tiruvannamalai. It is also admitted that the suit filed by the appellant and his mother claiming partition in respect of the property was dismissed and the matter is now pending before this Court in A.S.No.635 of 2019.

4.Stating that the sale deed executed in favour of the 3rd respondent is void and patta changed in favour of 3rd respondent is illegal, the appellant filed the writ petitions in W.P.Nos.23938 and 23817 of 2022 for issuance of Writ of Mandamus directing the official respondents, namely the Revenue Divisional Officer and Tahsildar, to consider the representation of the appellant dated 25.05.2022, wherein the appellant had requested the official



respondents to cancel the patta in respect of the schedule mentioned property in favour of the 3rd respondent in the respective Appeals. The writ petitions were finally disposed of by the impugned orders, giving liberty to the writ petitioner/appellant to work out his remedy in the pending Appeal Suit.

5.Having regard to the admitted facts, the appellant has to establish his title or right over the property and it is admitted that the suit in O.S.No.83 of 2017 before the Mahila Court, Tiruvannamalai, is dismissed and the appeal is now pending in A.S.No.635 of 2019 before this Court. In such circumstances, the appellant's claim that the sale deed executed by the son of Late Mr.K.R.S.Manicka Mudaliar cannot be invalidated at the request of a person who is yet to establish his title over the property.

6.During the course of arguments, the only point that was canvassed by the learned counsel for the appellant is that the property originally was purchased by his father Late Mr.K.R.S.Manicka Mudaliar in the name of his first wife. When the appellant himself admits that the property was



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purchased by his father in the name of his wife, the property is presumed to be the property of the first wife unless the property was acquired out of the joint family income. The appellant has to establish existence of joint family properties and the character of suit property. Therefore, even on merits, the appellant has no semblance of right over the property. However, the observation made by this Court is only on the submission made by the learned counsel for the appellant and the Appeal Suit that is pending will be disposed of uninfluenced by any of our observations made in this judgment.

7. Therefore, this Court finds no reason to interfere with the order of the learned Single Judge dismissing the writ petitions. Accordingly, these Writ Appeals are dismissed, however, preserving liberty to the appellant to work out his remedy in the Appeal Suit which is pending. No costs. Consequently, connected miscellaneous petitions are closed.

(S.S.S.R., J.) (A.D.M.C., J.)
17.10.2024

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Internet : Yes



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Index : Yes / No

Neutral Citation : Yes / No

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