



W.P.No.17178 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2024

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.17178 of 2024
WMP.Nos.18958 and 18959 of 2024

P.Vasanthakumari

... Petitioner

VS.

1.The Commissioner of Land Administration,
Chepuak, Chennai – 600 005.
2.The District Revenue Officer,
Namakkal District, Namakkal.
3.The Revenue Divisional Officer,
Namakkal District, Namakkal.
4.Marimuthu Ammal
5.Parimalam
6.Theivanai
7.Kamalasekaran
8.Moortheswari
Respondents

...

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to call for the records relating to the order of 2nd respondent by his proceedings Pa.Mu.2747/2023/01, dated 11.03.2024 and the consequential order of the 1st respondent his proceedings in R4/7282824/2024, dated 13.05.2024 and to quash the same and further



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pass an order to delete the name of Dhanapal Chettiyan and include the name Vasanthakumari, who is the only legal heir of Arumugam in the patta bearing No.708 in S.No.305/5 of Belukurichi Village, Senthamangalam Taluk, Namakkal District.

For Petitioner : Mr.K.K.Senthilvelavan
Senior Counsel
for Mr.R.Ragupathy

For Respondents : Mr.A.Selvendran
Special Government Pleader
for R1 to R3

ORDER

Aggrieved by the order passed by the second respondent confirming the order rejecting the request of the petitioner to delete the name of the respondents 4 to 8 from the patta and other revenue records pertain to S.No.305/5 in Belukurichi Village, Namakkal District. The petitioner has come by way of this writ petition.

2. According to the learned senior counsel appearing for the petitioner, the property in S.No.305/5 originally belonged to the common



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ancestor viz., Vaiyapuri Chettiyar and he had three sons viz., Velappa Chettiyar, Sundaram Chettiyar, Kamatchi Chettiar. There was a registered partition deed between Vaiyapuri Chettiar and his sons dated 27.10.1941 and as per the said partition deed, the subject property was allotted to the share of Kuppaiyandi Chettiyar under "E" schedule property to the partition deed. It is asserted by the petitioner that subsequently the sons of Kuppaiyandi Chettiar namely Dhanapal Chettiyar, Subrayan Chettiar, Palaniyandi Chettiar, Arumugam Chettiar and Mani @ Vaiyapuri Chettiar entered into a oral partition, petitioner's father was allotted 3/4th share in the subject property and they have been enjoying the respective portions of the properties as per the oral partition.

3. It is further submitted that the petitioner's father Arumugam submitted a representation to the 3rd respondent seeking deletion of name of Dhanapal Chettiar and inclusion of his name in the patta for S.No.305/5. The 3rd respondent submitted his report recommending the deletion of Dhanapal Chettiar's name. However, the second respondent overlooked the



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same and rejected the request of the petitioner by relegating the parties to the civil proceedings. Aggrieved by the same, the petitioner preferred a revision before the first respondent. The first respondent also confirmed the order passed by the second respondent.

4. The learned senior counsel appearing for the petitioner vehemently contended that the properties have been in possession and enjoyment of the petitioner for more than 40 years under oral partition and the same has not been taken into consideration by the respondents 1 and 2.

5. I am unable to accept the submission made by the learned senior counsel for the petitioner. It is seen from the case of the petitioner, the subject property stands namely in the name of the petitioner's father Kuppaiyandi Chettiar and petitioner's paternal uncle Dhanapal Chettiar. The "A" register for the suit property also stands in the name of Dhanapal Chettiar and Kuppaiyandi Chettiar. In such circumstances, the claim of the petitioner regarding exclusive possession cannot be accepted.



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6. The learned senior counsel appearing for the petitioner by taking this Court to the patta, submitted that the same has proved exclusive possession of the petitioner over the suit property. It is not in dispute that the petitioner is co-owner along with the Pattadhars mentioned in the “A” register as well as patta for the said property. Merely because a co-owner is in physical possession of the property, it cannot be presumed that he is in exclusive possession of the property. The possession of a co-owner is not only for himself and also for the benefit of the other co-owners. Whether there was a oral partition and whether the property was exclusively allotted to the petitioner under oral partition are all matters for evidence and the same cannot be conveniently considered by this Court in writ jurisdiction. The question of title of the petitioner over the said property cannot be gone into by the Revenue Officers.

7. In the impugned order, the first respondent as well as second respondent rightly relegated the parties to approach the Civil Court for redressal of their grievance.



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8. I do not find any merit in this writ petition and it is open to the petitioner to establish her right before the Civil Court.

9. Accordingly, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
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To

6/8



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S.SOUNTHAR, J.



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