



WEB COPY



W.P.No.33892 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2024

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.33892 of 2024
and
W.M.P.Nos.36709 & 36710 of 2024

V.Nagalatha

... Petitioner

Vs.

1.The Thasildar,
Perur Taluk Office,
Coimbatore District.

2.The Zonal Deputy Thasildar,
Perur Taluk Office,
Coimbatore District.

3.The Inspector Of Police,
Thondamuthur Police Station,
Coimbatore District.

4.K.S.Senathipathi,

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, Calling for the concerned records relating to the File No. 2024/0103/12/620750TR dated 24.09.2024 passed by the 1st respondent and quash the same and consequently directing the 1st respondent to order for change of patta in



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favour of the Petitioner in respect of the Petitioner's property in survey Nos.210, 211/2, 212, 213, 214 situate at Kalikkanyakkan Palayam Village, Coimbatore District.

For Petitioner : M/s.M.Gnanasekar

For Respondents : M/s.A.Selvendran, Special GP
for R.1 to R.3.

ORDER

Seeking to quash the order dated 24.09.2024 passed by the 1st respondent and consequently directing the 1st respondent to order change of patta in favour of the petitioner in respect of her properties comprised in Survey Nos.210, 211/2, 212, 213 and 214 situate at Kalikkanyakkan Palayam Village, Coimbatore District, the petitioner is before this Court.

2. It is the case of the petitioner that the aforesaid properties belonged to her father-in-law R.Dhamotharasamy. The said Dhamotharasamy had executed a registered Will dated 28.11.2014. The said Will contain three items of property. With regard to the 1st item of the property, the said Dhamotharasamy had executed a registered settlement deed dated 10.10.2013 in favour of his wife D.Dhanalakshmi. With regard to the 2nd item of property, he had given life estate to his wife, son and the petitioner's son Adharshkiran with a right of alienation to the petitioner's



children. With regard to the 3rd item of property measuring to an extent of 8.18 acres, he had given 5.21 acres in favour of the said Adharshkiran and 2.96 acres in favour of his sister Avanthika. As per the Will he had appointed his daughters Anitha and Latha along with one Mr.Ravichandran to look after the properties and to spend the income on Adharshkiran and his sister. The said properties would come to Adharshkiran and his sister with the right of alienation after they attained the age of 25 years.

3. The petitioner's contention is that the said Dhamotharasamy and his wife Dhanalakshmi are no more and apart from the petitioner's husband Ramesh, the said Dhamotharasamy and Dhanalakshmi had two daughters Anitha and Latha. Adarshkiran and Avanthika are the children of Ramesh and the petitioner. The petitioner would submit that her husband had sold the property which had been allotted to Avanthika under a registered sale deed dated 21.10.2023 in favour of one K.S.Senathipathy, the 4th respondent herein and the sale proceeds were put in FD in the name of Avanthika. The petitioner would contend that the aforesaid Senathipathy had started insisting upon the petitioner's husband executing a sale deed also in respect of the properties allotted to their son Adharshkiran. Therefore, to protect the properties, Adarshkiran had executed a settlement



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deed in favour of the petitioner on 04.04.2024. When the said settlement deed was submitted for registration before the Sub Registrar, Thondamuthur originally the Sub Registrar agreed to admit the document for registration. However, on coming to know about the execution of the settlement deed by the said Adharshkiran in favour of the petitioner, the said K.S. Senathipathy came to the office of the Sub Registrar and thereafter the Sub Registrar refused to register the settlement deed by issuing a refusal check slip dated 04.04.2024.

4. This was challenged by the petitioner's son in W.P.No.11304 of 2024 and by order of this Court dated 27.06.2024, the said Writ Petition was allowed, the impugned order was set aside and the Sub Registrar was directed to register the document within a period of 1 week. Thereafter, the Sub Registrar had registered the document as Document No.5296 of 2024 on 11.07.2024.

5. The petitioner would submit that on 16.09.2024, she had taken out an application for transfer of patta in respect of the subject properties. This representation was rejected by the 1st respondent by order dated 24.09.2024. The reason for the rejection was that the property was not in



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the enjoyment of the petitioner. Therefore, aggrieved by the same, the petitioner is before this Court.

6. Heard the learned counsel for the petitioner and the learned Special Government Pleader accepting notice for respondents 1 to 3.

7. A mere perusal of the impugned order clearly proves the non application of mind on the part of the 1st respondent. The 1st respondent had rejected the petitioner's application for transfer of patta on the ground that the subject property was not in the enjoyment of the petitioner without affording an opportunity to the petitioner to prove the contrary. The impugned order is a one-line, non-speaking order passed without affording the petitioner an opportunity to provide proof. Therefore, since there is a violation of the principle of natural justice, the Writ Petition is allowed and the matter is remitted back to the 1st respondent for fresh consideration. The 1st respondent shall issue notices to the petitioner, give her an opportunity to prove her case and thereafter pass a speaking order. The said exercise shall be completed within a period of 2 months from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous Petitions are closed.



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(shr)

Index : Yes/No

Speaking Order: Yes/No

Neutral Citation : Yes/No

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