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WP.No.34371 of 2024

In the High Court of Judicature at Madras

Dated : 18.11.2024

Coram :

The Honourable Ms.Justice P.T.ASHA

Writ Petition No.34371 of 2024 &
WMP.No.37245 of 2024

Anna Nayaki Trust, rep.by
Managing Trustee

...Petitioner

Vs

1.The Revenue Divisional Officer,
Erode.

2.R.Anandhamoorthy

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records relating to the order passed by the first respondent in Na.Ka.6370/2023/A4 dated 03.10.2024 and quash the same.

For Petitioner : Mr.V.Chandrasekaran
For R1 : Mr.A.Selvendran, SGP

ORDER

Questioning the cancellation of the sub-division of land by the first respondent without notice, the petitioner is before this Court.



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2. The main contention of the petitioner is that the petitioner's trust purchased an extent of 5.83 3/4 acres of land under a registered sale deed dated 30.8.2001 and the said lands comprise of S.No.400/1 for an extent of 5.34 1/2 acres and S.No.400/3 for an extent of 0.51 1/4 acre. The petitioner has been in enjoyment of the same since the date of purchase. With the approval of the Director of Town and Country Planning, the land in question has been utilized to construct a school building and a playground. The subject property was also subdivided by order dated 31.3.2018 subsequent to the purchase by the landlord. Thereafter, the father of the second respondent filed a civil suit in O.S.No.374 of 2018 on the file of the District Munsif Court, Erode for partition and for separate possession of his 1/12 share. The said suit was dismissed for default on 18.2.2019. However, at the instance of the second respondent, by the impugned order, the first respondent, citing the pendency of the said suit, cancelled the subdivision, but put the issue of patta on hold to await the decision of the civil court.

3. Heard the learned counsel for the petitioner and the learned Special Government Pleader accepting notice for the first respondent.



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4. The only ground, on which, the sub-division has been cancelled, is on account of the pendency of the said suit. The said suit has been dismissed for default on 18.2.2019 and the father of the second respondent has not obtained any order in his favour. The subject property has been purchased by the petitioner trust in the year 2001 and after the purchase, the petitioner obtained necessary approval for putting up a school building and a playground. The sub-division has taken place as early as 2018. The second respondent waited all this while to file an application for cancelling the sub-division. The second respondent has not established his right to the property in question. Therefore, the cancellation of the sub-division merely on the ground of pendency of the said civil suit, which was already dismissed for default, is erroneous and is liable to be dismissed.

5. Accordingly, the writ petition is allowed and the impugned order passed by the first respondent is set aside. The first respondent is directed to restore the sub-division within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected WMP is closed.

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P.T.ASHA,J

RS

To
The Revenue Divisional Officer,
Erode.

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