



W.P.No.35536 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.35536 of 2023

and

W.M.P.Nos.35493 and 35494 of 2023

K.Sivasubramani
S/o.Kumarasamy Gounder

... Petitioner

versus

1. The District Collector
Tiruppur District
Tiruppur.
2. The Revenue Divisional Officer
Dharapuram, Tiruppur District.
3. The Tahsildar
Kangayam Taluk,
Kangayam,
Tiruppur District.
4. The Head Surveyor
Taluk Office, Kangayam
Tiruppur District.
5. Kittusamy
S/o.Deivasigamani

.....Respondents



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Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorari, to call for the entire records relating to the impugned order passed by the 2nd respondent in his proceedings in Na.Ka.No.6525/2022/A dated 26.12.2022 and quash the same.

For Petitioner : Mr.B.Mohan
For Respondents : Mr.R.U.Dinesh Rajkumar
Additional Government Pleader
for R1 to R4

R5 - No appearance

ORDER

This writ petition has been filed to quash the order of the second respondent dated 26.12.2022 bearing reference Na.Ka.No.6525/2022/A.

2. The case of the petitioner is that the petitioner is in possession of the land situated in Old S.No.65, R.S.No.872/2A1, Pappini Village, Kangayam Taluk, Tiruppur District measuring an extent of 2.79 1/2 acres along with 30 cents, in which, the petitioner constructed a house and residing there. The fifth respondent is in possession of land situated in S.No.872/2A1 measuring an extent of 1.65 acres together with house site

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measuring an extent of 35 cents. When there was a dispute between the petitioner and fifth respondent herein, a partition deed dated 25.08.2003 was executed by them vide Document No.1365 of 2003 as both of them are having undivided property measuring an extent of 4.77 acres. Out of 4.77 acres, 75 cents were allotted for house sites and remaining 4.02 acres were available but as per partition deed, fifth respondent received 1.65 acres and the petitioner received 2.76 acres. The partition deed was executed by mentioning more extent of land than actually available as the house sites were already allotted to the petitioner and fifth respondent and other which has not been mentioned in the partition deed. By utilizing the said situation, fifth respondent made a representation to the respondents 1 to 4 for allotment of house sites in the very same survey number by claiming that 1.65 acres as his own land as per partition deed. The fifth respondent also claimed patta for 1.65 acres by suppressing the house sites allotted to him. The second respondent passed an order dated 26.12.2022 to measure 1.65 acres and hand over the same to the fifth respondent. Aggrieved against the same, the petitioner is before this Court.



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3. The learned counsel for the petitioner submits that as per the original title deed and house sites allotted to others, the fifth respondent cannot claim 1.65 acres and that the petitioner's share will also be reduced. He further submits that the second respondent passed the aforementioned order without even given a reasonable opportunity to the petitioner and others.

4. The learned Additional Government Pleader for respondents 1 to 4 submits that the fifth respondent submitted an application dated 11.07.2022 before the third respondent seeking survey and subdivision of the property mentioned in the partition deed dated 25.08.2023. After receipt of the application and after perusing the documents, it is found that the total extent of land was purchased by the petitioner's father and fifth respondent's father vide Document Nos.1345 and 1346 of 1967. As per the partition deed dated 25.08.2003, the subject property was divided into three schedules and were enjoyed and owned by the respective allottees and that parties claim right through the parent document for the aforesaid partition deed is Document No.1346 of 1967. However, in the partition deed they have



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wrongly mentioned the total extent as 4.76 acres but in the sale deed document No.1346 of 1967, it only contains an extent of 4.52 acres.

Further, they did not mention about the document No.1345 of 1967 in the partition deed. For the aforementioned reasons, the request of the fifth respondent was rejected by the third respondent vide order dated 11.07.2022. Aggrieved against the same, the fifth respondent preferred an appeal before the Revenue District Officer, Dharapuram on 12.12.2022, wherein the second respondent / RDO, Dharapuram, has passed an order dated 26.12.2022 by issuing a direction to subdivide the property as per enjoyment and related documents.

5. It is not in dispute that the petitioner himself has admitted that a larger extent has been mentioned in the partition deed dated 25.08.2003 than the title deed. It is also not in dispute that there is a confusion occurs regarding the extent in the partition deed. To be noted, the parties are entitled to sub-divide their extent of their property mentioned only in the title deed and not more than that. Therefore, the petitioner and the fifth respondent are directed to execute a ratification deed and thereafter,



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approach the authority concerned for subdivision of the subject property.

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6. With the above direction, the Writ Petition is disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

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Index: Yes/No
Speaking Order : Yes/No
Neutral Citation Case : Yes/No
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