



W.P.(MD)No.4107 of 2021

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Reserved on : 12.03.2024

Pronounced on : 22.03.2024

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

W.P.(MD)No.4107 of 2021

Rajangam

... Petitioner

Vs.

1. The District Revenue Officer,
O/o. District Revenue Office,
Madurai.
2. The Revenue Divisional Officer,
O/o. The Revenue Divisional Office,
Madurai.
3. The Thasildar,
Madurai North Taluk,
Madurai.
4. Sethuraman
5. Sola Rajan

... Respondents

Prayer : This Writ Petition filed under Article 226 of Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus,



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calling for the records pertaining to the impugned order passed by the first respondent vide his proceedings in Ni.Mu.No.25433/2012/G2 dated 23.12.2020 and quash the same as illegal and consequently direct the first respondent to issue patta by way of including the petitioner's name along with respondents 4 and 5.

For Petitioner : Mr.D.Senthil
For R1 to R3 : M/s.K.Christy Thebora
Additional Government Pleader
For R4 : No appearance
For R5 : Mr.T.K.Gopalan

ORDER

The Writ Petition is directed against the order passed by the first respondent in Ni.Mu.No.25433/2012/G2 dated 23.12.2020 and for directions to the first respondent to issue patta by including the writ petitioner's name along with the respondents 4 and 5.

2. It is not in dispute that the writ petitioner and the respondents 4 and 5 are brothers.

3. The case of the writ petitioner is that their family property is situated in Survey No.59/1 at Rajakambeeram Village, Madurai North



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Taluk to an extent of 0.0031.0 sq.mtr. of land, that the writ petitioner and the respondents 4 and 5 have constructed shops in the portion allotted to them, that the fourth respondent being the elder brother had maintained the entire property before partition and taking advantage of that, he obtained patta to the above said property in his name, that the fourth respondent with an intention to grab the entire property has executed a sale deed in favour of his son, for the entire property on the basis of the patta stands in the name of the fourth respondent, that the fifth respondent has filed an appeal before the second respondent, that the second respondent has passed an order dated 29.02.2012 by holding that the property in dispute is their joint family property, ordered for issuance of joint patta in the name of respondents 4 and 5 and that the fourth respondent, aggrieved by the order of the second respondent, has preferred a revision before the first respondent.

4. It is the further case of the writ petitioner that he was not at all made as a party in the proceedings before the second respondent as well as before the first respondent, that the writ petitioner, after coming to know about the above proceedings and pendency of the revision before the first



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respondent, has filed an application to implead him alleging that the property is a joint family property, that the first respondent has thereafter passed the impugned order dated 23.12.2020 confirming the order of the second respondent and rejected the claim of the writ petitioner and that therefore, the writ petitioner was constrained to file the present writ petition.

5. The learned counsel appearing for the writ petitioner would mainly contend that the first respondent, after holding that the property in dispute is a joint family property, has committed a grave error in not including the writ petitioner's name as joint pattadar and that the first respondent has not conducted any enquiry and the impugned order came to be passed violating the principles of natural justice.

6. It is seen from the records that the fourth respondent has filed the revision challenging the order of the second respondent ordering for issuance of joint patta in the name of respondents 4 and 5 and during the pendency of the revision, the writ petitioner has filed the application to implead him as a respondent in the revision mainly alleging that the property in dispute is a joint family property and that himself and the



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respondents 4 and 5 are having 1/3 share each in the property. The writ petitioner as well as the respondents 4 and 5 have produced documents and counsels for the respondents 4 and 5 have advanced their arguments before the first respondent. Considering the above, the first respondent has specifically observed that the writ petitioner has produced house tax receipt for a property bearing Door No.3/176-E2 for the periods 2016-2017 and 2017-2018 and the same are not connected with the property in dispute and that the writ petitioner has not submitted any arguments. The first respondent, by considering the materials produced by the respondents 4 and 5 and the order passed by the second respondent, by holding that the respondents 4 and 5 are having equal shares in the property, confirmed the order of the second respondent and on that basis, dismissed the revision.

7. No doubt, the writ petitioner before this Court has produced a copy of the partition deed dated 15.06.1998 entered into between the writ petitioner, the respondents 4 and 5 and their mother and copy of the judgment passed in O.S.No.878 of 2011 dated 05.12.2022 on the file of the I Additional Subordinate Court, Madurai filed by the fifth respondent against the writ petitioner, fourth respondent and their sister Sakunthala.



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8. The learned counsel appearing for the writ petitioner would submit that portion of the property in dispute was also allotted to the writ petitioner. He would further submit that the suit in O.S.No.878 of 2011 is not with respect to the property in dispute but in connection with other properties belonging to their family.

9. Admittedly, the writ petitioner has not produced the above documents before the first respondent and he has not offered any reason or explanation for non-production of the same before the concerned authorities. Though the counsel for the writ petitioner has alleged that he was not given any proper opportunity and the impugned order was passed in violation of the principles of natural justice, he has not elaborated anything further. It is evident from the impugned order itself that the writ petitioner has produced three documents and the same came to be considered by the first respondent. As already pointed out, the first respondent has specifically observed that the writ petitioner has not submitted any arguments with regard to the property in dispute.

10. Considering the impugned order and other materials available on record, the contention of the writ petitioner that he was not given any



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opportunity to produce the documents and the impugned order was passed violating the principles of natural justice is absolutely devoid of substance and is liable for rejection. Since the writ petitioner has not produced any *prima facie* material or evidence to show that he is having 1/3 share in the property in dispute, the first respondent has rightly rejected his claim and confirmed the order of the second respondent. Hence, this Court concludes that the impugned order cannot be found fault with. Since the writ petitioner has been alleging that he was given a share in the property in dispute as per the partition deed, he is at liberty to work out his remedy before the competent civil Court.

11. In the result, this Writ Petition is dismissed. The writ petitioner is at liberty to work out his remedy before the competent civil Court, if so advised. No costs.

22.03.2024

NCC :yes/No
Index :yes/No
Internet:yes/No
csm



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K.MURALI SHANKAR,J.

csn

To

1. The District Revenue Officer,
O/o. District Revenue Office,
Madurai.
2. The Revenue Divisional Officer,
O/o. The Revenue Divisional Office,
Madurai.
3. The Thasildar,
Madurai North Taluk,
Madurai.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Pre-Delivery Order made in
W.P.(MD)No.4107 of 2021

Dated : 22.03.2024