



W.P.(MD) No.14988 of 2017

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.08.2024

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THE HONOURABLE Ms.JUSTICE P.T.ASHA

W.P.(MD) No.14988 of 2017

and

W.M.P.(MD) Nos.11815, 11816 and 14435 of 2017

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... Petitioner

/vs./

1.The Tahsildar,
Boodalur Taluk,
Thanjavur District.

2.The Revenue Divisional Officer,
Thanjavur District.

3.The Taluk Deputy Surveyor,
Land Survey,
Boodalur Taluk,
Thanjavur District.

4.The Village Administrative Officer,
Onbathuvallley Village,
Boodalur Taluk,
Thanjavur District.

5.Raja @ Natarajan

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records relating to the proceedings of the impugned order in Ni.Mu.Pa.Ma.No.856/2017/A3 dated 17.07.2017 on the file of the 1st Respondent and quash the same.

For Petitioner : Mr.G.Prabhu Rajadurai

For R1 to R4 : Mr.D.S.Neduncheziyan
Government Advocate

ORDER

The above writ petition has been filed for a Writ of Certiorari to quash the order passed in Ni.Mu.Pa.Ma.No.856/2017/A3 dated 17.07.2017 by the first respondent.

2. The petitioner would submit that her husband, R.Srinivasan, who is an agriculturist, owned several items of agricultural properties in Onbathuvalley Village under patta Nos.161, 359 and 562. The petitioner's husband was taking care of the agricultural activity during his life time. The petitioner would submit that the fifth respondent is her son and apart from him, she and Srinivasan had two daughters, namely Sasikala and Chitra. She would submit that during the life



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time of her husband, there was misunderstanding between themselves and their son and they were thrown out of the ancestral home. The petitioner's son occupied the ancestral home and the petitioner and her husband were living in a separate tiled house.

3. On 02.06.2016, the petitioner's husband had passed away leaving behind him surviving the petitioner, fifth respondent and her two daughters. The fifth respondent appears to have created a forged Will of his father, the petitioner's husband, as if he had bequeathed all the properties on the fifth respondent to the exclusion of the petitioner and her daughter.

4. The petitioner would submit that there is absolutely no reason for this Will to have been executed by her husband, since they had been thrown out of the ancestral home by the very same fifth respondent. The petitioner would submit that their attempts to contact the fifth respondent to effect the partition was being put off. As the petitioner had entertained a doubt, she had given a representation to the first respondent on 12.07.2017 not to effect any name transfer in respect of the properties. Thereafter, she came to know that the fifth respondent had created



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some documents and therefore, a legal notice dated 18.07.2017 was issued by her, at which point in time she came to learnt that on 17.07.2017 itself, orders have been passed by the first respondent transferring the properties in the name of the fifth respondent on the strength of the Will. Since this entire exercise has been done behind the back of the petitioner and her daughters, the petitioner is before this Court.

5. Heard the learned counsel on either side.

6. Admittedly, the order mutating the properties in the name of the fifth respondent had taken place without the consent of all the legal heirs of the deceased Srinivasan. Even assuming that the fifth respondent had produced a Will, it is incumbent upon the first respondent to verify the genuineness of the document, for which purpose notice ought to have been issued to all the legal heirs of the said Srinivsan, examine their objections and thereafter pass orders. This exercise unfortunately has not been adopted by the first respondent.



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7. Therefore, the Writ Petition stands allowed. The impugned order passed in Ni.Mu.Pa.Ma.No.856/2017/A3 dated 17.07.2017 by the first respondent is hereby set aside and the matter is remanded back to the first respondent to consider the same afresh after issuing notice to all the legal representatives of late.Srinivasan. This exercise shall be completed within a period of one month from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No

22.08.2024

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To

- 1.The Tahsildar,
Boodalur Taluk,
Thanjavur District.
- 2.The Revenue Divisional Officer,
Thanjavur District.
- 3.The Taluk Deputy Surveyor,
Land Survey,

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Boodalur Taluk,
Thanjavur District.

4.The Village Administrative Officer,
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P.T.ASHA, J.

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