



W.P(MD).No.14128 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 03.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

**W.P(MD).No.14128 of 2023
and W.M.P(MD).No.11979 of 2023**

Alamelu

... Petitioner

Vs.,

1.The Sub Registrar,
Tirupattur,
Sivagangai District.

2.The Tahsildar,
Thiruppathur, Sivagangai District.

3.Chinnaiah

4.Ramasamy

... Respondents

(R2 is suo motu impleaded and the existing respondents 2 and 3 rank rearranged as R3 and R4 vide Court order dated 16.06.2023 in W.P(MD).No.14128 of 2023 by CVKJ)

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the first respondent to consider the objection petition NO.5 of 2023 submitted by the petitioner and her siblings dated 07.03.2023 in respect of S.Nos.86/13, 87/3A, 3B, 87/4A1, 4A2, Mahibalanpatty Village, Thirupattur Taluk, Sivagangai District within time stipulated by this Court.



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For Petitioner : Mr.RM.Arun Swaminathan
For Respondents : Mr.P.Subbaraj (for R1 & R2)
Special Government Pleader
Mr.R.Balakrishnan (for R3 & R4)

ORDER

This writ petition has been filed seeking for issuance of Writ of Mandamus directing the first respondent to consider the objection petition No.5 of 2023 submitted by the petitioner and her siblings dated 07.03.2023 in respect of S.Nos.86/13, 87/3A, 3B, 87/4A1, 4A2, Mahibalanpatty Village, Thiruppattur Taluk, Sivagangai District within time stipulated by this Court.

2. Heard Mr.RM.Arun Swaminathan, learned counsel appearing for the petitioner, Mr.P.Subbaraj, learned Special Government Pleader appearing for the respondents 1 and 2 and Mr.R.Balakrishnan, learned counsel appearing for the respondents 3 and 4.

3. The case of the petitioner is that the subject property originally belonged to the petitioner's grandfather and patta also stands in the name of the petitioner's father, namely, Nagappa Chettiyar, who died on 10.04.2010. The



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petitioner, who is the daughter of the said Nagappa Chettiyar, has right over the said ancestral property. However, the respondents 3 and 4, who are the brothers of the petitioner, are attempting to sell the said property without consent of the petitioner. Hence, the petitioner filed a protest petition seeking not to register any document presented by the respondents 3 and 4 in respect of the subject property.

4. The learned counsel for the respondents 3 and 4 would submit that the father of the petitioner executed a Will dated 23.08.1995 bequeathing the property to all his legal heirs. Based on the Will, the petitioner sold her share. Even in the representation of the petitioner itself, it was admitted that there is a Will. However, the stand now taken by the petitioner as if other Will has been projected.

5. In any event, as the petitioner has sold her share and hence, she cannot object the partition deed. At the outset, the Will executed by the father of the petitioner in respect of the subject property is not disputed and only the number of the Will is in question. Therefore, it is for the petitioner to file a suit for partition before the competent civil Court, if the petitioner has any right over the property. Mere objection cannot be decided in respect of the title by the authority.



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N.SATHISH KUMAR, J.

Rmk

6. In this view of the matter, the Writ Petition is disposed of with liberty to the petitioner to file necessary suit. No costs. Consequently, connected Miscellaneous Petition is closed.

03.09.2024

NCC : Yes/No
Index : Yes/No
Rmk

To
1.The Sub Registrar,
Tirupattur,
Sivagangai District.

2.The Tahsildar,
Thiruppathur, Sivagangai District.

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