



W.P(MD)No.16172 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 23.01.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.16172 of 2020

and

W.M.P(MD)Nos.13540 & 13543 of 2020

M.Duraiarasan

... Petitioner

Vs.

1.The District Revenue Officer,
Dindigul District.

2.The Sub Collector,
Palani, Dindigul District.

3.The Tahsildar,
Ottanchathiram Taluk,
Ottanchathiram
Dindigul District.

4.S.K.S.Somasundaram

5.S.K.S.Sivayogi

6.Umadevi

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for records pertaining to the order passed by the first respondent in Pa.Mu. 27695/2016/Aa6 dated 17.09.2020 and quash the same as illegal and consequently direct the first respondent to make necessary entries in the name of Vellaiammal and others legal heirs of deceased Kalimuthupillai in Patta No.800, which is consists in S.No.352/3, 353/3 situated at Ottanchathiram Village, Dindigul District.

For Petitioner : Mr.G.Thiruvartselvan

For Respondents : Mr.M.Lingadurai
Special Government Pleader
for R.1 to R.3

Mr.K.Suresh for R.4 & R.5

No Appearance for R.6

ORDER

Heard both sides.

2.The only question that calls for consideration is in whose name the revenue record in respect of the petition mentioned lands should stand.



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3.It appears that the property originally belonged to one Manikammal. She passed away on 23.12.1981. The extent of land was 2.31 acres. Manikammal had three children, namely, Kalimuthupillai, Vellaiammal and Somu @ Somasundarampillai. All the three are no more. The fifth respondent / Sivayogi is one of the four children of Kalimuthupillai. After Manikammal passed away, patta was mutated in favour of Kalimuthupillai and Somu @ Somasundarampillai. Vellaiammal was left out. The writ petitioner is the grandson of Vellaiammal. The petitioner claims right over 77 cents by virtue of he being a grandson and by virtue of purchase from the other legal heirs of Vellaiammal. He had also purchased 15.4 cents of land from Umadevi who is the daughter of Kalimuthupillai. Document Nos.157 of 2014 and 527 of 2017 are relied upon by the writ petitioner.

4.The learned counsel appearing for the writ petitioner draws my attention to the order dated 29.11.2016 passed by the Sub Collector, Palani cancelling the patta in favour of Sivayogi / the fifth respondent herein. Aggrieved by the same, the fifth respondent filed a revision before the District Revenue Officer, Dindigul who vide order dated



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17.09.2020 set aside the order passed by the Sub Collector. Challenging the same, the present writ petition came to be filed.

5.The stand of the learned counsel appearing for the petitioner is that when Manikammal owned 2.31 acres of land and she died intestate on 23.12.1981, the devolution of property must be as projected by the writ petitioner. In other words, each of the three children of Manikammal should get 1/3rd share in the property. Therefore, he would fault the mutation of patta in favour of Kalimuthupillai and Somu @ Somasundarampillai and subsequent mutation exclusively in favour of Sivayogi.

6.At the first blush, the contention of the learned counsel for the petitioner appears to be sound. But then, the learned counsel for the fifth respondent raised quite a few contentious arguments. He would point out that after the demise of Manikammal, patta was mutated in favour of Kalimuthupillai and Somu @ Somasundarampillai. Somu @ Somasundarampillai executed Will dated 11.09.2009 bequeathing his undivided ½ share in favour of the fifth respondent. He also would point



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out that quite a few civil suits are pending between the parties and that O.S.No.64 of 2015 was filed by Sivayogi on the file of District Munsif Court, Oddanchathiram.

7.It is also seen that Vellaiyammal does not appear to have lodged any objection during her lifetime. Vellaiyammal was alive till 30.10.2010. Her children have also not raised any objection. It is only the grandson of Vellaiyammal who is staking claim. Admittedly, patta was in the name of Sivayogi since 2009. In these circumstances, it may not be wise to disturb the status quo. At the same time, the rights of the petitioner also will have to be safeguarded. The fifth respondent through his counsel gives an undertaking that since the civil Court is seized of the matter, he would not alienate or create any encumbrance on the petition mentioned property. This undertaking given by the fifth respondent will hold good till the disposal of the civil suits before the trial Court.

8.At present, 6 suits are pending. The details are as follows:

1) O.S.No.64 of 2015 on the file of District Munsif Court, Oddanchathiram.



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2) O.S.No.124 of 2023 on the file of District Munsif Court, Oddanchathiram.

3) O.S.No.66 of 2022 on the file of District Munsif Court, Oddanchathiram.

4) O.S.No.1109 of 2022 on the file of Sub Court, Oddanchathiram

5) O.S.No.106 of 2019 on the file of Additional District Judge, Palani.

6) O.S.No.272 of 2021 on the file of Additional District Judge, Palani.

The learned Principal District Judge, Dindigul is directed to withdraw the above suits pending in the Munsif Court, Oddanchathiram and Sub Court, Oddanchathiram and transfer them to the Additional District Court, Palani for conducting common trial along with O.S Nos.106 of 2019 and 272 of 2021. Such proceedings will be issued by the learned Principal District Judge, Dindigul within a period of three weeks from the date of receipt of a copy of this order and all the bundles will be transmitted to the Additional District Judge, Palani as expeditiously as possible. The learned Additional District Judge, Palani shall dispose of



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all the suits within a period of two years thereafter. The impugned order will abide by the outcome of the civil proceedings. All the parties are strictly directed to extend their co-operation for conclusion of all the suits within the time limit stipulated above. The trial Court can very well cite this direction to reject any request for adjournment made without reasonable ground.

9.This writ petition is disposed of accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

23.01.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
MGA

To

- 1.The District Revenue Officer, Dindigul District.
- 2.The Sub Collector, Palani, Dindigul District.
- 3.The Tahsildar, Ottanchathiram Taluk, Ottanchathiram, Dindigul District.
- 4.The District Munsif, Oddanchathiram.



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5.The Sub Judge, Oddanchathiram.

6.The Additional District Judge, Palani.

7.The Principal District Judge, Dindigul.



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G.R.SWAMINATHAN, J.

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