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W.P.(MD)NO.16948 OF 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.01.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.16948 of 2020

Selvi

... Petitioner

Vs.

1. The District Collector,
Madurai District,
Madurai.
2. The Revenue Divisional Officer,
Thirumangalam,
Madurai District.
3. The Tahsildar,
Thirupparankundram Taluk,
Madurai District.
4. A.Hemalatha
5. V.Prabakaran
6. S.Venkateswarai
7. M.Mookkayee
8. Rajasekaran
9. Sakthi Reka

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the entire records pertaining to the impugned order passed by the second respondent vide his proceedings in Mu.Mu.No.3464/2020/A3 signed on 09.11.2020 and quash the same and consequently direct the



third respondent to include the petitioner's name in patta No.2221 in respect of the properties in survey Nos.168/11A, 169/8A, 169/9A, 189/3B, 189/5A, 189/7B and 190/5A1 situated in Valaiyankulam Village, Thirupparankundram Taluk, Madurai District within a stipulated period as fixed by this Court.

For Petitioner	: Mr.S.M.Anantha Murugan
For R-1 to R-3	: Mr.S.Kameshwaran
For R-4 to R-6 & R-9	: Mr.J.Senthilkumar
For R-7 & R-8	: Ms.K.Shwathini, for M/s.J.Maria Rubit.

* * *

ORDER

Heard both sides.

2. The only question that calls for consideration is whether the petitioner should be included as a joint pattdar in respect of the petition-mentioned property. It is beyond dispute that the property belonged to the petitioner's grandfather Mokkai @ Adaikkan. He was blessed with two sons, namely, Malaisamy and Vellaisamy. The petitioner was the daughter of Malaisamy. Both Malaisamy as well as Vellaisamy died predeceased his father. Mokkai @ Adaikkan passed away in the year 1994. Malaisamy had married Mookayi and through the said wedlock, four children were born (Selvam, Kalyanasundaram, Rajasekar and Selvi).



3. The grievance of the writ petitioner is that since she married out of community, her family had excluded her while obtaining legal heir certificate. To set right the same, the petitioner filed an appeal before the Revenue Divisional Officer, Thirumangalam. The Revenue Divisional Officer, Thirumangalam informed the petitioner that she can move the jurisdictional civil Court. This was because, O.S.No.198 of 2018 had been filed by the petitioner before the VI Additional District Judge, Madurai seeking partition.

4. It is true that in the pending suit, the exact share to be allotted to the petitioner can be decided. But the question that calls for consideration is whether the petitioner should be included as joint pattadar. Considering the aforesaid undisputed facts, I am more than satisfied that the petitioner could not have been excluded. The petitioner's grandfather died intestate. He did not execute any Will. Likewise, after the demise of Mokkalai @ Adaikkan, the property devolved in equal measure on the two branches of Malaisamy and Vellaisamy. Malaisamy branch had one wife and four children. The petitioner is entitled to 1/10th share, even if I assume at the most minimum. The petitioner would be entitled to 1/10th share in the estate of her grandfather Mokkalai @ Adaikkan. It is for the jurisdictional civil



Court to decide on the exact share of the petitioner. But then, the entitlement of the petitioner to be a joint pattadar cannot be questioned.

This is not a matter that should be relegated to the jurisdictional civil Court. The order impugned in this writ petition is set aside and the third respondent is directed to include the name of the petitioner as joint pattadar in respect of the petition-mentioned property.

5. Such proceedings will be issued by the jurisdictional Tahsildar within a period of five weeks from the date of receipt of a copy of this order. I make it clear that this direction given by me will not take away the defences of the contesting respondents. Issuance of joint patta by the Tahsildar will be subject to the outcome of the civil suit. This writ petition stands allowed. No costs.

24.01.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
PMU



WEB COPY



To:

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G.R.SWAMINATHAN,J.

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