



W.P.(MD)No.18803 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.11.2024

CORAM

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.(MD)No.18803 of 2024

and

W.M.P(MD)No.15906 of 2024

Rajammal

... Petitioner

Vs.

- 1.The District Collector,
Tuticorin Collectorate,
Tuticorin District - 628001.
- 2.The District Revenue Officer,
Office of the District Revenue,
Tuticorin District - 628001.
- 3.The Revenue Divisional Officer,
Office of Revenue Divisional Office,
Kovilpatti,
Tuticorin District - 628501.
- 4.The Tahsildar,
Villathikulam,
Tuticorin District - 628907.
- 5.The Village Administrative Officer,
Kumarasittanpatty Village,
Villathikulam Block,
Tuticorin District - 628904.
- 6.Sethuramasamy



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7.Solaisamy

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order in Na.Ka.No.T6/896654/2023, dated 05.06.2024 issued by the second respondent and quash the same as illegal and consequently directing the respondents 1 to 4 to restore the patta in favour of the petitioner's name in respect of Survey Nos.52/2 and 52/3 situated at Kumarasittanpatty Village, Vilathikulam Taluk, Tuticorin District.

For Petitioner : Mr.K.Krishna

For R1 to R5 : Mr.M.Muthumanikkam
Government Advocate

For R6 & R7 : Mr.A.Sivaji

ORDER

This writ petition has been filed challenging the impugned order, dated 05.06.2024 passed by the second respondent and directing the respondents 1 to 4 to restore the patta in the petitioner's name in respect of Survey Nos.52/2 and 52/3 at Kumarasittanpatty Village, Vilathikulam Taluk, Tuticorin District.

2. The petitioner's husband and the respondents 6 and 7 are brothers. The subject property in S.Nos.52/2 and 52/3 originally belonged to the father of the respondents 6 and 7. After the death of one Mr.Alagarsamy, the petitioner's husband and the respondents 6 and 7 partitioned the property among themselves



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under registered Partition deed in the year 1972. In pursuance of the aforesaid registered partition deed, the parties therein were in enjoyment of their respective shares. While so, the respondents 6 and 7 agreed to sell their share and oral agreement of sale was effected and also patta was changed in the petitioner's name. Thereafter, the respondents 6 and 7 approached the respondent authorities to rectify the error in the UDR settlement records and to grant them patta as per the partition deed of the year 1972. The second respondent based on the recommendation of the Revenue Divisional Officer, statements given by the respective parties, documents including the partition deed and the available revenue records concluded that there was an error in updating the registering settlement records and passed the impugned order.

3. Aggrieved by the same, the petitioner filed the writ petition for the aforesaid relief.

4. The learned counsel for the petitioner submitted that there was a partition and the subject property in S.Nos.52/2 and 52/3 was allotted to the respondents 6 and 7, and they in turn sold the property to the petitioner by an oral sale agreement. On the basis of oral sale agreement, patta was changed in the name of the petitioner during the UDR settlement. He further submitted that



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Village Adangal and Chitta and other revenue records clearly established that the petitioner was in possession and enjoyment of the property for the past 42 years without any objection from the respondents 6 and 7. Therefore, the impugned order including the names of the respondents 6 and 7 in the patta could not be sustained and deserved to be set aside.

5. The learned counsel for the respondents submitted that the impugned order was passed on an appreciation of the entire records like the report of the Revenue Divisional Officer, statements of the respective parties and partition deed and also other revenue records. He further submitted that the contention of the petitioner that she had purchased the property from the respondents could not be decided by the second respondent. The second respondent had rightly relegated the petitioner to the Civil Court to establish her title on the basis of the oral sale agreement pleaded by her. He further submitted that there was absolutely no infirmity or illegality in the impugned order passed by the second respondent.

6. I have carefully considered the submissions made by the respective learned counsels and perused the materials placed on record.



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7. As rightly contended by the respondents there is absolutely no evidence to show that the subject property was orally sold by the respondents 6 and 7. The said oral sale agreement is a disputed question of fact and the same can only be decided by Civil Court of competent jurisdiction. The registered partition deed in Document No.1564/1972, dated 18.12.1972 was placed before the second respondent and based on the said document, the second respondent had corrected the wrong UDR entry and issued the joint patta in favour of the petitioner and the respondents 6 and 7. The second respondent passed detailed order on the basis of the available records and so I find absolutely no infirmity or illegality in the impugned order.

8. Hence, I find no merits in the writ petition and the same is dismissed. In any event, the petitioner is given liberty to approach the Civil Court and establish her exclusive title to the subject property, if advised. No costs. Consequently, connected miscellaneous petition is closed.

05.11.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
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N.MALA, J.

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