



W.P.(MD) No.19088 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.08.2024

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD).No.19088 of 2024

K.Jeyachandran

.. Petitioner

Vs.

1.The District Collector,
Dindigul District,
Dindigul.

2.The Revenue Divisional Officer,
Dindigul,
Dindigul District.

3.The Tahsildar,
East Taluk,
Dindigul.

4.Punithavathi

5.Karthikeyan

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the 1st respondent to consider the petitioner's representation, dated 06.02.2023 and consequently directing the 1st and 2nd respondents to include the



W.P.(MD) No.19088 of 2024

WEB COPY

petitioner name in the Patta No.1012 in respect of the lands measuring to an extent of 1 acre 68 cents in S.F.No.471/1 and in the Patta No.2504 in respect of the lands measuring to an extent of 8 acre 16 cents in S.F.No. 478 at Sirumalai Village, Dindigul Taluk, Dindigul District within the period that may be stipulated by this Court.

For Petitioner : Mr.B.Senthil Kumar

For R1 – R3 : Mr.Saravanan
Additional Government Pleader

ORDER

The petitioner has approached this Court for issuance of a Mandamus to the 1st respondent to consider his representation, dated 06.02.2023 and as a consequential direction to the respondents 1 and 2 to include his name in Patta No.1012 in respect of the land in S.F.No.471/1 measuring an extent of 1 acre 68 cents and S.F.No.478 measuring an extent of 8 acres 16 cents in Sirumalai village, Dindigul District in Patta No.2504.

2. The petitioner would submit that the property in question belonged to his father Kamatchi @ Elango by virtue of a partition



W.P.(MD) No.19088 of 2024

entered into between him and his brother K.Ramakrishnan on 27.06.1995 registered as Document No.1535 of 1995. The properties were allotted to the share of the petitioner's father. It is the petitioner's further case that an extent of 9 acres 84 cents at Sirumalai Village, Dindigul were his ancestral properties. After the partition, the property was being enjoyed by the petitioner's father himself and his siblings as a joint family property. After the demise of Kamatchi @ Elango on 20.07.2017, without issuing any notice to the petitioner, a joint patta was issued in Patta No. 1012 in favour of the petitioner's sister Punithavathi and brother Karthikeyan and the petitioner's name was not found anywhere in the joint patta. The petitioner would submit that the property is an ancestral one, in which even he has a right and the non-inclusion of the petitioner is illegal.

3. The petitioner had made an application to the 3rd respondent under Right to Information Act as to the document, based on which the gift deed was executed by his father. The same was also given to the petitioner, who on scrutiny came to learn that what was executed was not



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Will but a gift deed. Though the petitioner did not admit the Will, he would submit that even perusing the recitals in the Will, it is clear that his father only had a 1/6th share in the properties comprised in S.F.Nos. 471/1 and 478 at Sirumalai Village. Patta has been transferred in the names of 4th and 5th respondents alone. Therefore, the petitioner had made an application to the 1st respondent to take action on his representation. However, since no action was taken, the petitioner is before this Court.

4. Heard the learned counsels on either side.

5. A perusal of the Will would indicate that what was bequeathed is only 1/6th share by the petitioner's father in favour of Punithavathi and Karthikeyan (4th and 5th respondents herein). The petitioner is aggrieved by the fact that despite being co-owner, his name has not been included in the patta. Therefore, since his name has been missed out, the present application for adding his name to the patta has been taken out by the petitioner.



W.P.(MD) No.19088 of 2024

WEB COPY

6. A perusal of the Will would indicate that the petitioner's father had clearly stated that he was entitled to a 1/6th share along with his children and the 1/6th share that has been bequeathed to the 4th and 5th respondents. Therefore, the contention of the learned Government Advocate that the petitioner's request cannot be granted, since the properties have been bequeathed in the name of 4th and 5th respondents cannot be sustained. Therefore, in the light of the above, Mandamus is issued to the respondents 1 to 3 to consider the representation of the petitioner, dated 06.02.2023 and pass orders after giving due notice to all the legal heirs of Kamatchi @ Elango including the petitioner herein calling their objection. The said exercise shall be completed within a period of six (6) weeks from the date of receipt of copy of this order.

7. Accordingly, this Writ Petition stands allowed. No costs.

08.08.2024

NCC : Yes/No
Index : Yes/No
Internet : Yes
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W.P.(MD) No.19088 of 2024

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W.P.(MD) No.19088 of 2024

P.T.ASHA, J.

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W.P.(MD) No.19088 of 2024

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