



W.P.(MD) No.9690 of 2018

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.10.2024

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THE HONOURABLE Ms.JUSTICE P.T.ASHA

W.P.(MD) No.9690 of 2018
and
W.M.P.(MD) No.8940 of 2018

M.Muthukumar

... Petitioner

/vs./

1.The Deputy Collector,
Devakottai,
Sivagangai District.

2.The District Revenue Officer,
Sivagangai.

3.The Revenue Divisional Officer,
Devakottai,
Sivagangai District.

4.The Tahsildar,
Karaikudi,
Sivagangai District.

5.S.Meyyappan (died)

6.Uma

*(R6 has been impleaded vide order
dated 09.10.2020)*

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relating to the impugned order dated 09/04/2018 in NA.KA.NO.B1/19734/2015 of the 2nd respondent herein and quash the same.

For Petitioner : Mrs.AL.Ganthimathi

For R1 to R4 : Mr.P.Thambidurai
Government Advocate

For R6 : Mr.M.Sricharan Rangarajan Senior Counsel for
Mr.K.K.Samy

ORDER

Aggrieved by the order passed by the second respondent on 09.04.2018 in his proceedings bearing Na.Ka.No.B1/19734/2015, the petitioner is before this Court seeking issue of Writ of Certiorari to quash the said order.

2. The brief facts which has led to the filing of this writ petition are herein below set out.

3. It is the contention of the petitioner that the property measuring an extent of 16335 sq.ft., in T.S.No.461, Block No.17, Ward No.2, at Karaikudi



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Municipality and Taluk belonged to Nachiammal Achi, W/o.Nachiappa Chettiar under a registered sale deed dated 04.07.1966. From the date of purchase, she has been in possession and enjoyment of the same. It is the contention of the petitioner that the property was purchased by the said Nachiammai Achi's husband in her name. They were blessed with three sons, N.Ramasamy, N.Muthukaruppan and N.Meyyappan. Out of these three sons, N.Ramasamy and N.Muthukaruppan were given in adoption to another family and N.Ramasamy's name was changed as S.Meyyappan, the fifth respondent herein.

4. It is the further case of the petitioner that Nachiammai Achi was living with her only son N.Meyyappan till her death on 25.08.2011. After her death, her son, Meyyappan, the petitioner's father, was in possession and enjoyment of the property from 2011 and a legal heirship certificate was also obtained from the Tahsildar and revenue records in respect of the property was transferred in the name of the petitioner's father, N.Meyyappan. N.Meyyappan had also executed a registered settlement deed dated 02.04.2013 in favour of the petitioner and the petitioner has been in possession and enjoyment of the property since then.



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5. While so, the petitioner was surprised to receive a notice addressed to his father from the third respondent stating that a representation has been received by him from the fifth respondent stating that the property measuring an extent of 8167.50 sq.ft., out of an total extent of 16335 sq.ft., in T.S.No.461 had been settled in his favour by his mother, Nachiammal Achi and she had also executed a registered Will dated 16.12.2008. She had bequeathed the property to the petitioner and on the basis of these documents, the fifth respondent had sought for transfer of patta in his name in respect of an extent of 8167 sq.ft., The petitioner had appeared for enquiry and submitted that he was totally unaware about the settlement deed and the Will executed by his mother and had also contended that the fifth respondent was never in possession and enjoyment of the property and had not claimed any right over the same since 2008 and the present application was based on the false documents.

6. The third respondent after hearing both the parties and on perusing the documents had rejected the application filed by the fifth respondent stating that the fifth respondent ought to have moved the civil Court. The fifth respondent did not file any suit and on 31.08.2015 had filed an appeal before the second



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respondent. The second respondent had issued a notice to the petitioner and by an order dated 09.04.2018 had set aside the order of the third respondent by finding title and directing transfer of patta in favour of the fifth respondent in respect of an extent of 8167.50 sq.ft., Aggrieved by the same, the petitioner is before this Court.

7. Pending the writ petition, the fifth respondent had passed away and his wife was impleaded as sixth respondent. She has filed a counter *inter alia* contending that out of 3 sons of Nachiammal Achi, she had given her 2nd son, N.Ramasamy, in adoption to one Thiruppathi Chettiar of Nerkuppai village and his name was changed as T.Palaniapan. The third son, Muthukarupan was also given adoption to one Saminathan Chettiar and his name was changed as S.Meyyappan. The petitioner is the 1st son of Nachiammal Achi and Nachiappan Chettiar.

8. The sixth respondent would submit that the property measuring an extent of 8167.50 sq.ft., vest with her husband, the fifth respondent by virtue of the registered gift deed executed by Nachiammal Achi in Doc.No.8198 of 2008 in his



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favour and on the basis of this document, the second respondent had rightly passed the order directing the fourth respondent to issue patta in favour of the deceased fifth respondent. She would further submit that out of 16335 sq.ft., in the above lands, apart from the settlement deed executed in favour of the deceased fifth respondent, the said Nachiammal Achi had also gifted an extent of 4083.75 sq.ft., to N.Ramasamy @ Palaniappan, who was the 3rd son, who had been given in adoption and the remaining extent of 4083.75 sq.ft., was bequeathed between the petitioner and N.Meyappan under a registered Will. Therefore, the petitioner had a right only to an extent of 4083.75 sq.ft., in the property.

9. The sixth respondent would submit that since her husband had come to understand that the fourth respondent had mutated the revenue records in favour of N.Meyyappan, the petitioner's father, he had made an application to the third respondent, who had conducted an enquiry and passed orders on 06.09.2013 directing him to approach the civil Court. Since the order was contrary to the settled principles of law, the sixth respondent's husband had moved the second respondent and the impugned order rightly came to be passed. She would submit



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that no explanation can be taken in the said order. She would therefore submit that the writ petition be dismissed.

10. The second respondent has filed a counter affidavit *inter alia* contending that the impugned order had been passed based on the documents and the petitioner ought to have moved the civil Court to have his title declared. He would submit that under Section 13 of the Tamil Nadu Patta Passbook Act, Revision would lie before him and he had jurisdiction to pass necessary orders.

11. Heard the learned counsel on either side.

12. The second respondent had taken into consideration that both parties had admitted that the property originally belonged to Nachiammal Achi. The case of the petitioner is that except for his father, the other two sons of Nachiammal Achi and Nachiappa Chettiar had been in adoption. His father alone was entitled to the property. However, during her life time, the said Nachiammal Achi, who admittedly is the owner of the property, had made a settlement deed in respect of 8167.50 sq.ft., in favour of the fifth respondent and further extent of 4083.75



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sq.ft., in favour of the other son of N.Muthukarupan and the remaining extent of 4083.75 was bequeathed by the said Nachiammal Achi in favour of the petitioner's father. The property has been dealt with by the original owner through registered documents. If the petitioner was aggrieved by the settlement deeds executed by the Nachiammal Achi, he ought to have moved the civil Court. It is seen from the documents that the settlement in favour of two sons given an adoption and the Will executed in favour of the petitioner has been made describing the boundaries of the scheduled properties. Therefore, taking into consideration the documents in question, namely the settlement deed dated 04.11.2008 has been executed by Nachiammal Achi out of her own volition, the impugned order has been rightly passed and I see no reason to interfere with the same. It is well open to the petitioner to workout his remedy by filing a civil suit.

13. In fine, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No

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P.T.ASHA, J.

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