



W.P(MD)No.20450 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.20450 of 2014 and
MP(MD) No.1 of 2014

Sivakumar

Rep by his Powerof Attorney and wife viz.,

Uma Maheswari

... Petitioner

Vs

1.The District Revenue Officer,
Ramanathapuram District.

2.The Revenue Divisional Officer,
Paramakudi,
Ramanathapuram District.

3.The Tahsildar,
Paramakudi Taluk,
Ramanathapuram District.

4.Sahadevan

5.Thangam

6.Mathialagan

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the proceedings of the impugned order in Pa.Mu.99387/2013 (P5), dated 17.11.2014 on the file of the first



W.P(MD)No.20450 of 2014

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respondent and quash the same.

For Petitioner : Mr.G.Prabhu Rajadurai
For R1 to R3 : Mr.A.Baskaran
Additional Government Pleader
For R4 to R6 : Mr.P.Thiyaga Rajan
Legal Aid Counsel.

ORDER

The petitioner is the grand son of one Sudalaimuthu Nadar. The properties in S.Nos.320/3, 396/1, 369/2, situated in Melakudi Village, Paramakudi Taluk, Ramanathapuram District belonged to Sudalaimuthu Nadar. The said Sudalaimuthu Nadar had five sons and one daughter, namely, Muthu Nadar, Madasamy, Sahadevan(R4), Rajamanickam and Subramanian. After the death of Sudalaimuthu Nadar, his legal heirs have orally partitioned the properties of Sudalaimuthu Nadar and they are in independent enjoyment of their respective shares in the property. Accordingly, sub-division has been made and they have also obtained separate pattas for their respective shares. While so, the respondents 4 to 6 have questioned the sub-division of the property in S.No.320/3A, 320/3B, 320/3C before the Revenue Divisional Officer that the



W.P(MD)No.20450 of 2014

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properties have not been sub-divided properly. The Revenue Divisional Officer has dismissed the application on the ground that the respondents 4 to 6 have failed to include all the legal heirs of the deceased Sudalaimuthu Nadar and have not disclosed all the properties of the said deceased Sudalaimuthu Nadar. As against the same, the respondents 4 to 6 have approached the District Revenue officer and the District Revenue officer by the order impugned in this writ petition has passed an order that S.No.320/3 was wrongly sub-divided among three persons including the petitioner, leaving out the fourth respondent and also direction was issued to grant patta to the parties after conducting re-survey of the lands in S.Nos. 320/2A, 2B and 2C. As against that order, the petitioner has filed this writ petition in the year 2014.

2.The learned counsel for the petitioner submits that the impugned order has been passed by the District Revenue officer based on the oral partition and without impleading the other legal heirs of the deceased Sudalaimuthu Nadar and certain properties of



W.P(MD)No.20450 of 2014

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the deceased Sudalaimuthu Nadar have been left out. The District Revenue officer cannot assume the jurisdiction of a civil Court and pass orders based on the unregistered oral partition. The learned counsel further submits that the sub-division made 30 years ago cannot be questioned after this long period.

3. There is no representation for the respondents 4 to 6 and it was reported that the learned counsel Mr. Senthurpandian is no more. Considering that this writ petition is pending from the year 2014, this Court appoints Mr. P. Thiyagarajan, learned counsel, who is an experienced counsel in civil side, as a legal aid counsel to defend the case of the respondents 4 to 6 in this writ petition.

4. Mr. P. Thiyagarajan, learned legal aid counsel for the respondents 4 to 6 submits that the petitioner by taking advantage of the mistake committed during UDR survey is in enjoyment of the property for years together. Total extent of land in Survey No. 320/3 at Melayakudi Village is 3 Acres 96 cents, which was sub-divided



W.P(MD)No.20450 of 2014

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into Survey No.320/3A to an extent of 39.5 Ares (R5), Survey No. 320/3B to an extent of 77 Ares (writ petitioner), Survey No.320/3C to an extent of 44 Ares (R6), instead of four divisions to an extent of 99 cents (30.5 Ares), in favour of writ petitioner and the respondents 4to 6 as per their oral partition. In respect of Survey Nos.369/1 & 369/2, all the four sons have to be given 13 Ares as per the partition. However, in the UDR, the writ petitioner was given patta for 17 Ares, the fifth respondent was given patta for 12 Ares, the sixth respondent was given patta for 8 Ares. Hence, the respondents 4 to 6 applied for corrections in extent of land as per their possession and enjoyment. Therefore, there is no need to interfere with the impugned order.

5.This Court considered the rival submissions made and also perused the materials placed on record.

6.The petitioner is the grand son of one Sudalaimuthu Nadar. The fourth respondent is the son of Sudalaimuthu Nadar. The



W.P(MD)No.20450 of 2014

fifth respondent is the grand son of Sudalaimuthu Nadar through Madasamy. The sixth respondent is the grand son of Sudalaimuthu Nadar through Rajamanickam. As per the oral partition deed among the legal heirs of the deceased Sudalaimuthu Nadar, the land in S.No.320/3 was divided as 39.5 Ares. However, during the UDR survey, it has been recorded as 77 Ares. The land S.No.320/3B to an extent of 77 was in favour of the petitioner. Similarly, the land S.No.369/1 and 369/2 have to be sub-divided into 13 Ares each among four brothers. However, this petitioner has obtained patta for 17 Ares instead of 13 Ares. All the subdivisions have been made only based on the oral partition before the Revenue divisional Officer. All the legal heirs excepting the petitioner have agreed that the manner, in which the partition has been made as 39.5 Ares in 320/3 and 13 Ares in 369/1 and 369/2. The District Revenue Officer has passed an order to conduct re-survey in the lands in S.Nos. 320/2A, 2B and 2C and to issue patta to the parties as per the partition.



W.P(MD)No.20450 of 2014

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7.In view of the above, there is no infirmity in the impugned order passed by the District Revenue Officer and accordingly this writ petition is dismissed with a liberty to the petitioner to establish his rights before the competent civil Court by filing a civil suit impleading all the legal heirs of Sudalaimuthu Nadar. The Legal Services Authority is directed to pay a sum of Rs.15,000/-to the Legal Aid counsel towards remuneration. No costs. Consequently, connected miscellaneous petition is closed.

19.02.2024

NCC: Yes/No
Index:Yes/No
Internet:Yes
vrn



W.P(MD)No.20450 of 2014

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W.P(MD)No.20450 of 2014

B.PUGALENDHI, J.

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