



W.P.(MD) No.19097 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.10.2024

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.19097 of 2016

and

W.M.P.(MD) No.13798 of 2016

1.Thasleem Sulaiha Maraikayar,
Rep., by her Power of Attorney
Dr.Imtiaz Ahmed Maraikayer

2.Fara Maryam-Hajar Maraikayer,
Rep., by her Power of Attorney
Dr.Imtiaz Ahmed Maraikayer

.. Petitioners

Vs.

1.The District Collector,
Ramanathapuram District,
Ramanathapuram.

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

3.The Revenue Divisional Officer,
Ramanathapuram District,
Ramanathapuram.



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4.The Thasildar,
Ramanathapuram District,
Ramanathapuram.

5.Rafi Ahameed

6.R.Nadira Rafi

7.Hussaina Hameena Beevi

8.Hameed Siddiq Ali

9.S.T.N.R.Habeeb Nizar

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the Impugned Order in Pa.Mu/23318/2016(B6) dated 12.09.2016 on the file of the Respondent No.2 and quash the same as illegal and consequently forbear the Respondents No.1 to 4 herein from mutating any revenue records with regard to the property in S.Nos. 458/3A2 and 469/6A2 in Kanjirankudi Group, Kilakarai Circle, Ramand District.

For Petitioner	:	Mr.T.Lajapathi Roy
For R1 to R4	:	Mr.B.Saravanan Additional Government Pleader
For R6 & R7	:	Mr.M.Saravanan
For Respondent-5	:	No appearance



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ORDER

Aggrieved by the order passed by the second respondent setting aside the earlier order passed by himself on 31.05.2013, and cancelling the patta granted to the petitioners' Power of Attorney, the petitioners are before this Court represented by their Power of Attorney.

2. The Power of the Attorney of the petitioners would submit that the petitioners herein are his wife and daughter, they have nominated him as their Power of Attorney under a registered deed of Power of Attorney, dated 29.09.2014. It is his case that the property in question *viz.*, the property comprised in S.Nos.458/3A2 and 469/6A2, Kanjirankudi Group, Kilakarai Circle, Ramanathapuram originally belonged to one Syed Hameed. Syed Hameed died *intestate* without leaving any dispute and on his demise, the property devolved on his wife Syed Umar Ameena Ummal and sisters B.N.Yusuf Sulaika and B.N.Hajar Beevi. Hajar Beevi by way of oral gift had gifted her undivided share in favour of her daughter Hajirath Fatima, mother of the petitioners' Power of Attorney. Thereafter, Hajirath Fatima gifted her undivided right in favour of the



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petitioners' Power of Attorney under an oral gift and on the basis of these gifts, the second respondent had passed an order dated 31.05.2013 including the name of the petitioners' Power of Attorney in the joint patta in respect of the aforesaid property.

3. Earlier, the mother of the petitioners' Power of Attorney Hajirath Fathima along with her mother B.N.Hajira Beevi had filed a suit in O.S.No.4 of 1990 on the file of the Sub-Court, Ramanathapuram claiming share in the plaint schedule property. This suit was filed against Syed Saddiq, son of S.M.Sheik Abdul Kadar; Hameed Siddiq Ali, son of S.M.Sheik Abdul Kadar; Hussaina Hameena Beevi, wife of Hameed Siddiq Ali; Sathakathulla; Rahamath Ayisha Beevi; and Tajudeen. Syed Umar Amina Ummal, wife of Syed Hameed, was also a party to the suit and on her demise, her legal representatives were brought on record. A preliminary decree was passed on 30.12.1996 and it is thereafter, that the mother of the petitioners' Power of Attorney had executed the settlement in his favour. After the decree, respondents 7 and 8 had obtained a forged patta. Aggrieved by the same, a revision petition was filed by the



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Power of Attorney of the petitioners before the second respondent-District Revenue Officer, Ramanathapuram and on 31.05.2013, the revision was allowed and a joint patta was issued. Thereafter, respondents 5 and 6 had once again filed a petition before the second respondent seeking cancellation of the joint patta granted in favour of the petitioners' Power of Attorney. Since the very application was not maintainable, as it amounted to seeking the second respondent to review his own order, the petitioners' Power of Attorney had filed W.P.(MD) No. 3077 of 2015 for a mandamus restraining the second respondent from conducting the enquiry and the learned Single Judge had directed all parties to appear before the second respondent and produce documents. Aggrieved by this order, the Power of Attorney had filed W.A.(MD) No. 1272 of 2016 and the same was ordered on 15.09.2016. Meanwhile, during the pendency of the writ appeal, the impugned order came to be passed on 12.09.2016.

4. The Power of Attorney of the petitioners would submit that when there are serious questions with reference to the title, it is only the



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competent civil Court, which is empowered to decide the title, particularly when the preliminary decree for partition has been obtained. Therefore, the above writ petition.

5. Learned counsel for respondents 6 and 7 would submit that the order does not suffer from any infirmity and has been passed taking into account the subsequent events.

6. Heard the learned counsel on either side. Though notice has been served on the fifth respondent, none appears on behalf of the fifth respondent.

7. It is an admitted case that the property originally belonged to Syed Hameed and that he had died *intestate* leaving behind his legal representatives. Therefore, till such time as partition is granted by metes and bounds, all the legal heirs are entitled to share in the property. The second respondent had rightly in the impugned order granted a joint patta. The petitioners' Power of Attorney has been granted a separate



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patta for a specified portion of the property, in the subsequent order, which by itself was erroneous, since the second respondent-District Revenue Officer has no power to review his own order and any person aggrieved has to only approach the civil Court.

8. Be that as it may, the second respondent has proceeded to set aside his earlier order, stating it as an ex-parte order and that despite notice, the respondents therein have not appeared before him. The second respondent has rightly observed that till such time title and right under the agreement of the sale was established, the order dated 31.05.2013 cannot be sustained. This portion of the order cannot be found fault with. However, while so, he has also directed patta to be reverted to the earlier position that is to cancel the petitioners' Power of Attorney's name from the joint patta.

9. As earlier stated, the petitioners' Power of Attorney is one of the legal representatives of Syed Hameed having right to the property and who has also got a preliminary decree for partition. Therefore, this Writ



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Petition is partly allowed, setting aside the order of the second respondent dated 12.09.2016, insofar as it removes the petitioners' Power of Attorney's name from the joint patta. The parties shall approach the revenue authorities after the suit is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

01.10.2024

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

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P.T.ASHA, J.

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