



W.P.(MD) No.20148 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.10.2024

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.20148 of 2018

and

W.M.P(MD)No.17905 of 2018

R.Parthiban

... Petitioner

Vs.

- 1.The District Collector,
District Collectorate,
Thoothukudi,
Thoothukudi District.
- 2.The District Revenue Officer,
Thoothukudi District,
Thoothukudi.
- 3.The Revenue Divisional Officer,
O/o the Revenue Divisional Officer,
Kovilpatti,
Thoothukudi District.
- 4.The Tahsildar,
O/o the Tahsildar,
Vilathikulam,
Thoothukudi District.
- 5.Senthur Pandi



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6.Balamurugan

7.Suresh

8.A.Indira

9.Muruganantha Valli

10.Shanmuga Sundaram

11.Karuppasamy

.. 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 D6/6085/2017, dated 13.04.2018 on the file of the Respondent No.2 herein and quash the same as illegal and consequently to direct the Respondents No.1-3 herein to entered the name of the original owners including petitioner in village account as per the 10 (1) documents in Survey No.365 in Patta No.1026 in Soorankudi Village, Vilathikulam Taluk, Thoothukudi District.

For Petitioner : Mr.S.Rajasekar

For R1- R4 : Mr.B.Saravanan
Additional Government Pleader

For R5- R11 : M/s.A.Victoria



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ORDER

The present writ petition has been filed to call for the records pertaining to the Impugned order in D6/6085/2017, dated 13.04.2018 on the file of the Respondent No.2 herein and quash the same as illegal and consequently to direct the Respondents No.1-3 herein to entered the name of the original owners including petitioner in village account as per the 10 (1) documents in Survey No.365 in Patta No.1026 in Soorankudi Village, Vilathikulam Taluk, Thoothukudi District.

2. It is the case of the petitioner that the property measuring an extent of 3.79.0 hectares in Survey No.365 in Soorankudi Village, Vilathikulam Taluk, Thoothukudi District belong to one M.Subbaiah Thevar and 14 others and a joint patta was issued to them. One Pethavinayagam Pillai was one of the joint pattadhars. Pethavinayagam Pillai's legal heirs, namely Ramasamy Pillai s/o Muniyandi had executed a Will in favour of the petitioner and his brother Gnanasambantham on 16.02.2006 in respect of the said property to an extent of 4 acres 9 cents in Survey No.685 and 8 cents in Survey No.301-15 and another extent of



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1.69 acres in Survey No.301/15 of Soorankudi Village. On the death of Ramasamy Pillai on 16.05.2006, the Will came into force. The petitioner would submit that some persons were interfering with his peaceful possession and enjoyment of the properties. Therefore, while checking up the revenue records relating to Survey No.365 Patta No.1026, the petitioner found that in the UDR scheme and in the 10 (1) account, Survey No.365 and Patta No.1026 stands in the name of M.Subbaiah Thevar, but in the village accounts, Patta No.1026 was in the name of Balamurugan s/o Shanmuga Raj and 5 others and survey number was shown as 315/13A. The said Balamurugan had no connection to the property. The petitioner had sought for certain details under the RTI Act and after receiving the particulars, had made representation to the authorities to rectify the wrong entries made in the village accounts. The representations were made on 08.03.2013 and 06.09.2016. Since the same did not yield any result, he had filed W.P(MD)No.2384 of 2017 for a mandamus to direct the respondents to enter the name of the original owner including the petitioner in the patta relating to Survey No.365 in Patta No.1026 of Soorankudi village. By an order, dated 13.02.2017, the



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writ petition was disposed of with a direction to the respondents to consider and pass orders on the representation within a period of 12 weeks. Thereafter, the 2nd respondent had passed the order impugned in this writ petition. Challenging the same, the petitioner is before this Court.

3. The respondents 1 and 2 had filed a counter affidavit *inter alia* contending that the order impugned is in order since there is a dispute with reference to title and the same could be resolved only through the Civil Court.

4. The respondents 5 to 11 had filed a counter affidavit *inter alia* contending that the petitioner has come to Court suppressing the true facts. The earlier request for similar prayer was rejected by an order, dated 24.10.2007 and thereafter, the petitioner had approached the authorities suppressing the aforesaid orders. The revenue authorities had rejected the request on 20.10.2010 and therefore, the same had become final. Even in the earlier proceedings, the petitioner had not produced any documents to show his title to the property. Without challenging the



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earlier orders by filing a civil suit, the petitioner had once again approached the 2nd respondent through a representation, dated 06.09.2016 and W.P(MD)No.2387 of 2017 was filed for a mandamus to consider the representation. Thereafter, the 3rd respondent had issued a notice of enquiry which was challenged by the respondents. Though the enquiry was stayed, the 2nd respondent conducted an enquiry and rejected the request of the petitioner. The respondents would submit that the property measuring an extent of 9.36 acres in Survey No.365 of Soorankudi Village belong to their grand father Senthur Thevar and all the revenue records were stood in his name. On his demise, his 4 sons had inherited the property and they had entered into an oral partition, in and by which the said extent of 9.36 acres was divided into 4 equal parts for enjoyment. However, patta stood in the joint names. The petitioner had claimed a right on the basis of the Will, dated 16.02.2006 executed by Ramasamy Pillai and applied to include the name in the patta before the 3rd respondent. The 3rd respondent had also passed an order, dated 12.06.2009 for including the name. Against this order, the respondents' father Shanmugaraja had filed a revision before



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the 2nd respondent and the same was allowed. Against the order passed in the revision petition, the remedy available is to file a civil suit. However, suppressing these orders, the petitioner has filed the present writ petition.

5. Heard the learned counsel on either side.

6. It is uncontroverted that the earlier proceedings have been initiated and that a revision was filed by the petitioner's father before the 2nd respondent in Na.Ka.No.D3/4309 1/09 and the said revision was allowed on 20.10.2010. Therefore, the present petition is the 3rd round of litigation, that too after orders having been passed on 20.10.2010 in the revision proceedings by the 3rd respondent. The remedy available to the petitioner was only to institute a civil suit, if he was aggrieved by the orders of the 3rd respondent. The petitioner has not challenged the order of the 2nd respondent, dated 20.10.2010 in Na.Ka.No.D3/4309 1/09.



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7. Considering the fact that the present petition is the third of its kind, the same is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

24.10.2024

NCC : Yes/No

Index : Yes/No

Internet : Yes

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P.T.ASHA, J.

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