



W.P.(MD) No.13356 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.09.2024

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.13356 of 2017

and

W.M.P.(MD) No.10411 of 2017

Selvaraj

.. Petitioner

Vs.

1.District Revenue Officer,
Sivagangai District,
Sivagangai.

2.Revenue Divisional Officer,
Sivagangai District,
Sivagangai.

3.The Tahsildar,
Karaikudi Taluk, Karaikudi,
Sivagangai District.

4.The Special Tahsildar,
Town Land Tax Scheme,
Karaikudi, Sivagangai District.

5.M.Ramu

6.M.Meiyappan

7.M.Alagurajan

.. Respondents



W.P.(MD) No.13356 of 2017

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, to call for the records relating to the order dated 30.06.2017 in Pa.Mu.B1/14854/16 by the District Revenue Officer, Sivagangai District, the first respondent herein and quash the same.

For Petitioner : Mr.C.Meenakshi Rama Prabhu
For R1 to R4 : Mr.P.Thambidurai
Government Advocate

ORDER

This writ petition is filed to quash the order of the first respondent dated 30.06.2017 in Pa.Mu.B1/14854/16.

2. The petitioner's contention is that his father Meiyappan @ Chinnakaruppan and mother Gandhimathi had 7 children, four sons who are the petitioner and respondents 5 to 7 and three daughters viz., Subbulakshmi, Kalyani and Sarala. His father had purchased a property in S.No.389 pt. under a registered sale deed dated 08.05.1958 from one R.M.Karuppiah measuring 6000 sq. ft. The petitioner's father died on 10.03.1973. Another property in T.S.No.389 pt. B-7, Kurukam 470



W.P.(MD) No.13356 of 2017

measuring an extent of 2962 sq. ft. in Karikudi Town belonged to Karaikudi Nattar Venkatachalam Ambalam was purchased by the petitioner's mother under a registered sale deed dated 11.12.1992. The revenue record stood in the name of the said Nattar. The new survey numbers for the said S.No.38 pt. B-7 are T.S.Nos.954/1 and 955/2. It is the contention of the petitioner that he and his mother have been in possession of the property and his mother had executed a Will on 07.08.2003 bequeathing the property on the petitioner and she has passed away on 11.08.2007. Thereafter, the petitioner had approached the third respondent for mutation of revenue records and the same was also mutated in his name on the basis of the Will.

3. It appears that respondents 5 to 7 had filed a civil suit in O.S.No.85 of 2016 on the file of the District Munsif Court, Karaikudi for partition. Pending the civil suit, the fifth respondent also simultaneously preferred an appeal before the District Revenue Officer, Sivagangai for cancelling the patta which stood in the petitioner's name. He had filed the appeal on the ground that the Will and the unregistered sale deed in



W.P.(MD) No.13356 of 2017

favour of his mother was a fraudulent document and that it was the petitioner's father who had purchased the property. The fifth respondent had suppressed the filing of the civil suit. The petitioner had filed a detailed counter despite which the first respondent had allowed the appeal by going into the title. Challenging the same, the petitioner is before this Court.

4. The main argument as was advanced was that the District Revenue Officer, the first respondent had lacked jurisdiction and the appeal would lie only before the Revenue Divisional Officer, the second respondent. As already stated, the civil suit which is filed for partition is pending disposal and therefore, the parties are relegated to the civil Court and await the judgment therein. However, the patta shall be restored back in the name of Gandhimathi. The petitioner is claiming an exclusive right on the basis of the Will which he has to prove in the manner known to law and this is possible only before a civil Court. Therefore, this Writ Petition is disposed of directing the parties to establish their title in the suit in O.S.No.85 of 2016 and thereafter,



W.P.(MD) No.13356 of 2017

approach the revenue authorities for grant of patta. The suit shall be proceeded with without being influenced by the observations made by the first respondent or this Court. No costs. Consequently, connected miscellaneous petition is closed.

02.09.2024

NCC : Yes/No

Index : Yes/No

Internet : Yes

abr

To

- 1.District Revenue Officer,
Sivagangai District,
Sivagangai.
- 2.Revenue Divisional Officer,
Sivagangai District,
Sivagangai.
- 3.The Tahsildar,
Karaikudi Taluk, Karaikudi,
Sivagangai District.
- 4.The Special Tahsildar,
Town Land Tax Scheme,
Karaikudi, Sivagangai District.



WEB COPY



W.P.(MD) No.13356 of 2017

P.T.ASHA, J.

abr

W.P.(MD) No.13356 of 2017

Dated: 02.09.2024