



W.P.(MD) No.16426 of 2017

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.08.2024

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THE HONOURABLE Ms.JUSTICE P.T.ASHA

W.P.(MD) No.16426 of 2017

R.Selvi

... Petitioner

/vs./

1.The Revenue Divisional Officer/Sub Collector,
Paramakudi,
Ramanathapuram District.

2.The Tahsildar,
Taluk Office,
Paramakudi,
Ramanathapuram District.

3.S.Devadoss

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the Impugned Memo of the 2nd Respondent in Na.Ka.No.1/0697/2017 dated 13.06.2017 and quash the same in so far as the Impugned Order in respect of Survey No.62/4B and 21/14A to the extent of 44 cents in toto situates in Panithivayal Village, Paramakudi Taluk, Ramanathapuram District and direct the



W.P.(MD) No.16426 of 2017

2nd Respondent to issue Patta to the petitioner in respect of properties in Survey No.62/4B and 21/14A to the extent of 44 cents in toto.

For Petitioner : Mr.D.Sasikumar
For R1 & R2 : Mr.P.Thambidurai
Government Advocate
For R3 : No appearance

ORDER

The above writ petition has been filed for the issue of a Writ of Certiorarified Mandamus to quash the order of the second respondent in Na.Ka.No.1/0697/2017 dated 13.06.2017 and to direct the second respondent to issue patta to the petitioner in respect of the property in S.Nos.62/4B and 21/14A.

2. It is the case of the petitioner that she, her husband and her children are engaged in agricultural activities and since she was taking care of her mother, her mother had executed a registered gift deed in her favour on 11.04.2016 in respect of the Nanja land in S.No.21/14A, measuring an extent of 19 cents and S.No. 62/4B, measuring an extent of 25 cents and punja land in S.No.12/9C measuring an extent of 37 cents and S.No.99/7 measuring an extent of 16 cents. Her mother had died on 17.08.2017.



W.P.(MD) No.16426 of 2017

WEB COPY

3. The petitioner would submit that the property standing in the name of her mother had been partitioned by her three brothers amongst themselves long back and she was not given any share in the said properties. The petitioner therefore made an application for transfer of revenue records in her name. The third respondent, who is the brother, has been cultivating the lands with her permission. She would submit that the patta in respect of S.No.12/9C and 99/7 was mutated in her name. However, the patta in respect of S.Nos.21/14A and 62/4B was not mutated in her name on the ground that her brother, Devadoss, has been cultivating the lands for several decades, constructed a house and installed a bore well in the said premises. Since the petitioner was not in possession of the property, the patta in respect of these two survey numbers were not given to her and the Tahsildar had opined that the petitioner should obtain necessary orders from the Civil Court and thereafter, the request would be considered. Though there is an appeal remedy provided, the petitioner has rushed to file this writ petition.

4. Heard the learned counsel on either side.



W.P.(MD) No.16426 of 2017

WEB COPY

5. Though the language of the Act would state that the Tahsildar should issue patta passbook to every owner in respect of the land owned by him, the definition of the owner would include a person holding the land in severalty or jointly or in common under ryotwari settlement or in any way subject to the payment of revenue direct to the Government. Therefore, from the impugned order, it appears that the petitioner's brother has been enjoying the lands and paying the revenue. Until and unless, the petitioner obtains a decree from the Civil Court declaring her title to the property, the respondents cannot issue patta, particularly when there is an objection to the same.

6. Therefore, I see no reason to interfere with the impugned order and the petitioner is at liberty to get her grievance redressed through the Civil Court. The respondents have rightly observed that there is a dispute with reference to the title to the property. The Writ Petition is therefore dismissed. No costs.

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

29.08.2024



W.P.(MD) No.16426 of 2017

WEB COPY

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W.P.(MD) No.16426 of 2017

P.T.ASHA, J.

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