



W.P.(MD) No.17944 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.09.2024

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.17944 of 2017

and

W.M.P(MD)No.14459 of 2017

Shyra Banu

.. Petitioner

Vs.

1.The Revenue Tahsildar,
Taluk Office, Kilakarai,
Kilakarai Taluk,
Ramanathapuram District.

2.M.Bathurudeen

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, to direct the 1st respondent to call for the records pertaining to Na.Ka.No.A4/5581/2017, dated 08.09.2017 on the file of the 1st respondent and quash the same as illegal, unjust without jurisdiction.

For Petitioner : Mr.J.M.Hassanul Bazari

For R1 : Mr.D.S.Nedunchezian
Government Advocate



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For R2 : M/s.G.Vidhya Maheswaran

ORDER

The present writ petition has been filed to quash the order of the 1st respondent, dated 08.09.2017 in Na.Ka.No.A4/5581/2017.

2. The property in Periyapattinam village bearing Survey No. 74/1A1 and 221/20 measuring an extent of 4.68 cents belonged to one Mohamed Hussain. The said Mohamed Hussain died in the year 1984 and thereafter, his legal heirs had entered into an agreement on 27.05.1999 and partition deed was written in detail. As per the partition chita, the property was allotted to Ismathullah Khan and he had obtained patta in his favour after due enquiry by the revenue authorities. The other siblings of Ismathullah Khan had obtained separate patta in their favour in respect of the shares allotted to them on 17.06.2010. While so, one of the brothers, namely Bahrudeen approached the revenue authorities to cancel the patta issued to Ismathullah Khan. The revenue authorities conducted an enquiry and rejected the claim of Bahrudeen. Thereafter, the said Bahrudeen had filed O.S.No.64 of 2007 on the file of District



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Munsif, Ramanathapuram for a declaration and permanent injunction.

After a fulfilled trial, the suit was dismissed on 19.03.2013. Challenging the same, the said Bahrudeen had filed A.S.No.22 of 2013 on the file of the Sub Court, Ramanathapuram and the same was allowed setting aside the judgment and decree passed in O.S.No.64 of 2007 on 02.12.2014. Thereafter, the legal heirs of Ismathullah Khan suppressing all these facts, had sold the property to the petitioner on 12.05.2015 for valuable consideration. The petitioner would also submit that the judgment and decree in A.S.No.22 of 2013 is pending in S.A(MD)No. 523 of 2016.

3. It is also appears that the said Bahrudeen had filed a suit against the petitioner and the legal heirs of Ismathullah Khan in O.S.No.189 of 2015 on the file of District Munsif Court, Ramanathapuram to declare the sale in favour of the petitioner as null and void. The petitioner had sought to have the patta changed in his name. After conducting an enquiry, the patta was changed in the name of the petitioner on 23.06.2017. Thereafter, on an application was made by Bahrudeen on



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05.07.2017, the patta granted to the petitioner was cancelled without notice to the petitioner. Therefore, aggrieved by the same, the petitioner is before this Court.

4. Without going into the merits of the case and taking note of the fact that the impugned order, dated 08.09.2017 has been passed without notice to the petitioner, the same is set aside and the matter is remitted back to the file of the 1st respondent for a fresh consideration and pass orders after issuing notice to the petitioner as well as the 2nd respondent. The said exercise shall be completed within a period of two (2) months from the date of receipt of copy of this order.

5. With the said observations, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

30.09.2024

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

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Taluk Office, Kilakarai,
Kilakarai Taluk,
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P.T.ASHA, J.

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