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W.P.Nos.28570, 33663 and 33647 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.01.2023

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

AND

THE HONOURABLE Mr.JUSTICE N.ANAND VENKATESH

W.P.Nos.28570, 33663 and 33647 of 2022

AND

W.M.P.Nos.28767, 33115, 33099, 27865 and 33516 of 2022

W.P.Nos.28570 of 2022

Rayappan @ Rayappa Gounder

.. Petitioner

Vs.

1.The Director of Enforcement
Directorate of Enforcement
Chennai Zonal Office-II
2nd and 3rd Floor, Murugesu Naicker Complex
No.84, Greaves Road, Chennai 600 006.

2.The Sub Registrar
Sulur Sub Registrar Office
Sulur Post, Coimbatore District.

3.Vasanthamani (deceased)

4.Menagadevi

5.Sudha

(R4 & R5 substituted as LR's of deceased R3
vide order dt.3.1.23)

.. Respondents



W.P.Nos.28570, 33663 and 33647 of 2022

Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus calling for the records of the provisional attachment order No.2 of 2019 on the file of the 1st respondent/ Directorate of Enforcement, Chennai Zonal Office-II dated 29.03.2019 relating to item No.2 in the schedule of property-2 and quash the same based on the representation dated 18.05.2022 and further direct the 1st respondent to issue No Objection Certificate for the petitioner's land in Survey No.25/3, Karavazhi Madhappur Village, Suler Taluk, Coimbatore District with boundaries of Southern to Kaliappa Gounder land, Northern to Kuttai Poramboke, Eastern to Survey No.25/4, Western to Thenvadal Ettetari.

For Petitioners : Mr.D.Veerasekharan

For Respondents : Mr.Cibi Vishnu
Special Public Prosecutor (ED)
for R1

Mr.P.Kumaresan
Additional Advocate General - VII
Assisted by:
Mr.S.John J.Raja Singh
Additional Government Pleader
for R2

W.P.No.33663 of 2022

1.Smt.Menaka Devi
2.Smt.A.Sudha

.. Petitioners

Vs.

1.The Government of India
Ministry of Finance
Department of Revenue
Directorate of Enforcement
Rep. by its Assistant Director
S.Karthikeyan, 3rd Floor, Shastri Bhavan
No.26, Haddows Road
Chennai 600 006.



W.P.Nos.28570, 33663 and 33647 of 2022

2.The District Registrar
Coimbatore.

3.The Sub Registrar
Sulur Sub Registrar Office
Sulur Post, Coimbatore District.

4.Rayappan @ Rayappa Gounder

5.Arukkaniyammal

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus directing the respondents 1 and 2 to correct and rectify the village name as Kaniyur instead of Karavallimadhapur in document No.3674 of 1992 dated 20.11.1992 on the file of the 3rd respondent in respect of survey No.25/3 measuring 3.25 acres.

For Petitioners : Mr.I.Abrar MD Abdullah

For Respondents : Mr.Cibi Vishnu
Special Public Prosecutor (ED)
for R1

Mr.P.Kumaresan
Additional Advocate General - VII
Assisted by:
Mr.S.John J.Raja Singh
Additional Government Pleader
for R2 & R3

W.P.No.33647 of 2022

1.Smt.Menaka Devi

2.Smt.A.Sudha

.. Petitioners

Vs.



W.P.Nos.28570, 33663 and 33647 of 2019

- 1.The Government of India
Ministry of Finance
Department of Revenue
Directorate Enforcement
Rep. by its Assistant Director
S.Karthikeyan
3rd Floor, Shastri Bhavan
No.26, Haddows Road
Chennai 600 006.
- 2.The District Registrar
Coimbatore.
- 3.The Sub Registrar
Sulur Sub Registrar Office
Sulur Post, Coimbatore District.
- 4.Rayappan @ Rayappa Gounder
- 5.Arukkaniyammal

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus directing the 1st respondent to correct the village name as Kaniyur instead of Karavallimadhapur in schedule of property-2 item-2 in provisional attachment order No.2/2019 dated 29.03.2019 and all its further proceedings in respect of document No.3674 of 1992 dated 20.11.1992 on the file of the 3rd respondent in respect of survey No.25/3 measuring 3.25 acres.

For Petitioners : Mr.I.Abrar MD Abdullah

For Respondents : Mr.Cibi Vishnu
Special Public Prosecutor (ED)
for R1

Mr.P.Kumaresan
Additional Advocate General - VII
Assisted by:
Mr.S.John J.Raja Singh
Additional Government Pleader
for R2 & R3



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W.P.Nos.28570, 33663 and 33647 of 2022

COMMON ORDER

[Made by N.ANAND VENKATESH, J.]

On 03.01.2023, we passed the following order:

“The minimum facts that are required for deciding the issues in these writ petitions are as under:

1.1. For the sake of convenience, we are referring to the names of the parties in these writ petitions.

1.2. One Late Thavasi Gounder was the owner of the property measuring 7.33 acres, the schedule of which, is as under:

"சொத்து விபரம்
கோயம்புத்தூர் சி.டி.டு, துலூர் சப் டி.டு, பல்லடம்
தாலுக்கா. கரவழி மாதப்பூர் கிராமத்தில்-க.ச.பு.25/3 நெ.காலை
ஏ.7.33-ல் தென்புறம்-
குட்டைபுறம் போக்கும் - வடக்கு
தென்வடல் இட்டேரிக்கும் - மேற்கு
பெரியராமக்காள் பூமிக்கும் - தெற்கு
25/4 நெ.காலைக்கும் - கிழக்கு
இதன் மத்தியில் ஏ.4.33-ல் தெற்கோட்டில்
காளியப்பகவுண்டர் பூமிக்கும் - தெற்கு
தென்வடல் இட்டேரிக்கும் - மேற்கு
குட்டைபுறம் போக்கும் - வடக்கு
25/4 நெ.காலைக்கும் - கிழக்கு
இதன் மத்தியில் ஏ.1.50 இந்த பூமியும், மாவடை மரவடை
சகிதம். (தே. சொத்து கோயம்புத்தூர் ஜில்லா போர்டு
எல்லைப்பகுப்பட்டது.)"

1.3. Thavasi Gounder died and his legal heirs wanted to partition the aforesaid property. Therefore, when they went to the office of the Sub Registrar, Sulur, they were shocked to learn that their property has been attached by the Enforcement Directorate *vide* Provisional Attachment Order No.2/2019 dated 29.03.2019. Enquiries conducted by them revealed that, the Enforcement Directorate ought to have attached the property in the adjoining village, *viz.*, Kaniyur Village instead of attaching the aforesaid property in Karavali Mathapur Village. After giving a representation to the Enforcement Directorate, Rayappan @ Rayappa Gounder, who is the son of Thavasi Gounder, has filed W.P.No.28570 of 2022.



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1.4. On notice, the parties entered appearance. While that being so, one late K.Duraisamy purchased a property measuring 16.89 acres in Kaniyur Village vide Document No.3674 of 1992 dated 20.11.1992 registered in the office of the SRO, Sulur. However, in the schedule to the said document, it appears that instead of giving the name of the village as Kaniyur, the name of the village has been given as Karavali Maathapur. For the sake of convenience, we extract the schedule of the property in Document No.3674 of 1992, which is as follows:

"சொத்து விவரம்

திருப்பூர் ரி.டி., துலூர் சப்.ரி.டி., பல்லடம் தாலுக்கா, கரவளி மாதப்பூர் கிராமம், க.ச.பு. 25/3 (இருபத்தி ஐந்து உட்பிரிவு முன்று) நெம்பர் காலை ஏக்கர் 16.89க்கு தரம் ரூபாய் 18.92. இதில் -

சின்னியன் பூமிக்கும்	 வடக்கு
மாரச் சக்கிலி பூமிக்கும்	 கிழக்கு
பழனி மாதாம் பூமிக்கும்	 தெற்கு
முத்துக்கவுண்டர் பூமிக்கும்	 மேற்கு

இதன் மத்தியில் கிழமேல் நீளியாக புஞ்சை காட்டு பூமி ஏ. 3.25 (முன்று ஏக்கர் இருபத்து ஐந்து சென்ட்) இதன் தீர்வை சென்ட் ரூபாய் 3.94.

இந்த பூமியும் ஹை பூமிக்குண்டான மாமூல் வழிநடை பாத்தியமும் சகிதம். ஹை சொத்து கரவளி மாதப்பூர் பஞ்சாயத்து போர்டு எல்லைக்கும் துலூர் பஞ்சாயத்து யூனியன் எல்லைக்கும் உட்பட்டது."

(emphasis supplied)

1.5. It appears that one VMT Textile Mills Limited represented by the said K.Duraisamy was implicated as accused by the Enforcement Directorate in C.C.No.56 of 2016. During the course of investigation, the Enforcement Directorate passed Provisional Attachment Order No.2/2019 dated 29.03.2019 attaching the property of the said K.Duraisamy, covered by the said Document No.3674 of 1992, which was also confirmed by the Adjudicating Authority and the same is under challenge before the Appellate Tribunal. For better appreciation, we extract the schedule of property that has been attached by the Enforcement Directorate in the Provisional Attachment Order, which is as follows:

"Item – 2



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In the Registration District of Tirupur, Sub Registration District of Sultur, Taluk of Palladam, Karavali Mathapur village G.S.No.25/3 Punjai acre 16.89 Asst. Rs.8.92. In this

North of Chinnian lands,
East of Marachakkili lands,
South of Palani Mathari lands,
West of Muthu Gounder lands.

In this along East west Punjai dry lands 3.25 acres Asst. Rs.3.64 with mamool pathway right."

(emphasis supplied)

2. Thus, from the above, it is clear that a mistake had crept in the description of the village name in Document No.3674 of 1992 and therefore, in the Provisional Order of Attachment referred to above, the same mistake has crept in, due to which, the property of the said late Thavasi Gounder has been attached instead of the property of the said late K.Duraisamy. On coming to know of this, Menaka Devi and Sudha, who are the legal heirs of the said late K.Duraisamy have filed W.P.Nos.33647 and 33663 of 2022, volunteering to carry out the rectification in the name of the village as Kaniyur instead of Karavali Mathapur and they have sought for appropriate directions.

3. It is clear from the above facts that, the mistake was inadvertent and considering the same, we could have issued appropriate directions in these writ petitions. However, in order to get a confirmation, we direct the Sub-Registrar, Sultur [R2 in W.P.No.28570 of 2022 and R3 in W.P.Nos.33647 and 33663 of 2022] and the Thasildar, Sultur, to make an inspection of the two schedule of properties mentioned supra along with the parties. While undertaking such an exercise, the relevant documents shall also be relied upon. A report, in this regard, shall be submitted to this Court on or before 10.01.2023. The report shall state as to whether a mistake had crept in the name of the village in Document No.3674 of 1992 on the file of SRO, Sultur, as asserted by both the parties.

4. Mr.John J. Raja Singh, learned Additional Government Pleader, takes notice for the Sub Registrar, Sultur Sub Registrar Office, Sultur Post, Coimbatore District [R2 in W.P.No.28570 of 2022 and R3 in W.P.Nos.33647 and 33663 of 2022].

Call on 10.01.2023."



2. Pursuant to the directions of this Court, the Registration officials and the Revenue officials conducted inspection on 04.01.2023 and the Sub Registrar, Suler, has filed a report dated 06.01.2023. The relevant portion of the said report reads as under:

“2. It is submitted that on receipt of a copy of the order dated 03.01.2023, this respondent requested the Tahsildar, Suler to make arrangements to inspect the said properties and accordingly the Tahsildar, Suler received a report from the Village Administrative Officer, Kaniyur on 04.01.2023.

3. It is submitted that in the report of the Village Administrative Officer, Kaniyur, it is mentioned that one K.Duraisamy son of Karuppasamy Gounder had purchased an extent of 3.25 acres of land in survey No.25/3 of Karavazhimadhappur Village *vide* Document No.3674 of 1992, the name of village is wrongly mentioned as Karavazhimadhappur instead of Kaniyur, by oversight and hence there is no impediment to correct the mistake which had crept in during the execution of the said document.

4. It is submitted that on the basis of the said report, the Tahsildar, Suler in his letter dated 05.01.2023 addressed to this respondent had stated that in the schedule of property mentioned in the said document No.3674 of 1992, the name of village may be corrected as Kaniyur may be corrected as Kaniyur instead of Karavazhimadhappur.

5. It is submitted that on the basis of the above facts, this respondent submits that this Hon'ble Court may be pleased to pass appropriate orders in the above writ petition and thus render justice.”

3. A reading of the above shows that a mistake has crept in, in the schedule of the property in document No.3674 of 1992, in that, instead of Kaniyur village, it has been typed as Karavazhimadhappur village. We are satisfied with the above report. Thus, the Enforcement Directorate instead of attaching the property belonging to the petitioners in W.P.Nos.33646 and 33663 of 2022, by mistake have provisionally attached the property of the



petitioner in W.P.No.28570 of 2022. We cannot blame the Enforcement Directorate for this mistake since they purely event by the description of the property in D.No.3674 of 1992. Probably, if the Enforcement Directorate had physically verified the property that was provisionally attached, they could have identified the mistake.

4.Considering the stand taken by the respective parties and in order to safeguard the right of the petitioner in W.P.No.28570 of 2022 and in order to ensure that the interest of the Enforcement Directorate is taken care of and also considering the fact that the petitioners in W.P.Nos.33647 and 33663 of 2022, have volunteered to rectify the name of the Village and properly describe the property in D.No.3674 of 1992, we exercise our extraordinary jurisdiction under Article 226 of the Constitution of India and issue the following directions ;

(a) The petitioners in W.P.No.33647 and 33663 of 2022, shall file a sworn affidavit before the Sub Registrar, Sulur, by giving the correct description of the property and mentioning the name of the Village as Kaniyur in D.No.3674 of 1992 and the Sub Registrar, Sulur shall entertain the sworn affidavit along with a web copy of this order and forward the same to the District Registrar, Coimbatore who in turn shall carryout the necessary



rectification by mentioning the name of the Village as Kaniyur in terms of Section 68(2) of the Registration Act, 1908. This correction shall be reflected in the Encumbrance Certificate by making reference to the sworn affidavit filed by the petitioners and the order passed by this Court in these writ petitions. This process shall be completed by the petitioners viz., Smt.Menagadevi and Smt.A.Sudha, the Sub Registrar, Sulur and the District Registrar, Coimbatore, within a period of **four weeks** from the date of receipt of the web copy of this order.

(b) The petitioners Smt.Menagadevi and Smt.A.Sudha shall address a representation to the Enforcement Directorate along with the certified copy of the sworn affidavit and the certified copy of the Encumbrance Certificate reflecting the name of the Village as Kaniyur and request the Enforcement Directorate, to make the necessary correction in Item – 2 of the description of property in the provisional attachment Order No.2/2019 dated 29.03.2019 and the confirmation order passed by the Adjudicating Authority, New Delhi in OC.No.1135/2019, dated 13.09.2019. A web copy of this order shall also be annexed along with the representation made to the Enforcement Directorate. The Enforcement Directorate shall act upon the representation and take steps to carryout the necessary amendment in the provisional attachment order and the adjudication order. This process shall be completed by the Enforcement



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Directorate within a period of **four weeks** from the date of the receipt of the representation from the petitioners along with the relevant documents.

(c) The Enforcement Directorate after making the necessary amendment in the provisional attachment order and the adjudication order, shall address a communication to the Sub Registrar, Sulur with a direction to the Sub Registrar, to take note of the encumbrance of the property attached in D.No.3674 of 1992, reflecting the name of the Village as Kaniyur Village. The Sub Registrar, Sulur, shall act upon the communication and record the encumbrance for the concerned property. This process shall be completed by the Enforcement Directorate and the Sub Registrar, Sulur, within a period of **four weeks** from the date of compliance of direction (b). and ;

(d) The encumbrance insofar as the property belonging to the petitioner in W.P.No.28570 of 2022, shall stand lifted and the owners of this petition property shall be permitted to deal with the property free from the encumbrance created by the Enforcement Directorate.



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5.In the result, these writ petitions stand disposed of in the above terms. No costs. Consequently, all the connected miscellaneous petitions are closed.

[P.N.P., J.] [N.A.V.,J.]

11.01.2023

Internet: Yes
Index: Yes/No
kp



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To
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- 1.The Director of Enforcement
Directorate of Enforcement
Chennai Zonal Office-II
2nd and 3rd Floor, Murugesu Naicker Complex
No.84, Greaves Road, Chennai 600 006
- 2.The Government of India
Ministry of Finance
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11.01.2023