



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 18.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

W.P. (MD) No.1316 of 2018

and

W.M.P (MD) .Nos.1382 and 1383 of 2018

P.Gunasekaran

... Petitioner

Vs

1.The District Revenue Officer,
Theni District,
Theni.

2.The Revenue Divisional Officer,
Periyakulam Division,
Periyakulam,
Theni District.

3.The Tahsildar,
Andipatti Taluk,
Andipatti,
Theni District.

4.R.Amutha

5.S.Prakash

6.K.Subbramanian

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the first respondent in Na.Ka.No.35134/2013/D4 dated 29.08.2017 as well as the order passed by the second respondent in Na.Ka.No.770/2013/A1 dated 19.08.2013 and consequently direct the first respondent to conduct the enquiry as per the G.O.Ms.No.385 (Revenue (Public-3) Department) dated 17.08.2004 and issue patta in favour of the Chackan's legal heirs for S.No.1506/1 in accordance with law within time stipulated by the this Court.

For Petitioner : Mr.Vijayakumar

For R1 to R3 : Mr.M.Rajarajan

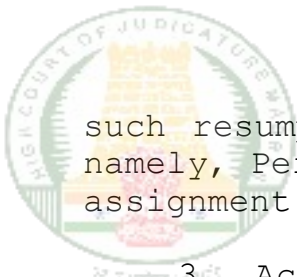
Government Advocate

For R4 & R6 : Mr.R.Suriyanarayanan

ORDER

Heard the learned counsel on either side.

2. It is not in dispute that 3.38 acres in S.No.1506 in Kovilpatti Village, Periakulam Taluk, was assigned in favour of one Perumal Madhari. It is a Panchami land. Vide order dated 30.10.1972, the Revenue Divisional Officer, Periakulam, directed resumption of 2.25 acres in S.No.1506/2. The reason for directing



such resumption was that the legal heirs of the original assignee, namely, Perumal Madhari had alienated 2.25 acres in violation of the assignment condition.

3. According to the writ petitioner, the original assignee Perumal Madhari was blessed with three sons namely Subban, Chackan and Chinnan. The petitioner claims to be one of the grandson of Chackan, born through his elder son namely Perumal. The petitioner would allege that the other two branches namely Subban and Chinnan had alienated their 2/3rd share of the assigned land and that is why the resumption order was passed.

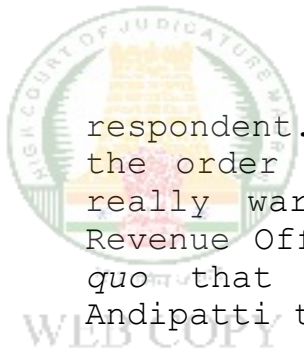
4. The petitioner's contention is that on account of such resumption orders, the said two branches namely Subban, Chinnan have no right whatsoever in S.No.1506. But according to the petitioner, due to UDR mistake, the names of Perumal and Kandan, sons of Chinnan, who belonged 3rd branch got entered. Taking advantage of the UDR error, they had sold the land in S.No.1506/1 in favour of the respondents 4 and 5 herein. They had once again made a certain alienation in respect of the very same property in favour of the sixth respondent. Then a dispute arose between the respondents 4 and 5 on the one hand and sixth respondent on the other. The respondents 4 and 5 had instituted a civil suit against the sixth respondent and also succeeded therein.

5. Be that as it may, the petitioner feeling aggrieved by the alleged UDR error, filed a revision before the District Revenue Officer, Theni. The District Revenue Officer, Theni, vide order dated 17.03.2011 directed the Tahsildar, Andipatti Taluk to hold an enquiry in the matter. The Tahsildar, Andipatti Taluk after a detailed consideration of all the materials on record, passed an order dated 16.05.2011 in favour of the writ petitioner. The same was questioned by the contesting respondents herein before the Revenue Divisional Officer, Periakulam. The Revenue Divisional Officer, Periakulam by order dated 19.08.2013 set aside the order passed by the Tahsildar, Andipatti Taluk on the ground that civil suits are pending in respect of the subject land.

6. Aggrieved by the aforesaid order of the Revenue Divisional Officer, Periyakulam, the petitioner herein filed a revision before the District Revenue Officer, Theni. The District Revenue Officer, Theni by order dated 29.08.2017 once again remanded the matter to the file of the Tahsildar, Andipatti and asked the Tahsildar, Andipatti to give an opportunity to both the parties. But he passed a direction for restoration of the original position that prevailed at the commencement of the dispute. The order passed by the District Revenue Officer, Theni is assailed in this writ petition.

7. Heard the learned counsel on either side.

8. The learned counsel appearing for the respondents 4 and 5 would deny the genealogy projected by the writ petitioner. He also pointed out that the petitioner herein has been set up by the sixth



respondent. He drew the attention of this Court to the fact that the order passed by the District Revenue Officer, Theni, does not really warrant any interference, because all that the District Revenue Officer, Theni, has done was the restoration of the *status-quo* that originally prevailed and called upon the Tahsildar, Andipatti to undertake a comprehensive enquiry.

9. This Court had a look at the application dated 15.03.2011 submitted by the writ petitioner and others. The writ petitioner had taken a categorical stand that on account of the UDR error, the names of Perumal and Kandhan, sons of Chinnan had been entered. No one can dispute that it is only the District Revenue Officer, who is competent to set right the error that had taken place during UDR. It is again well known that there is no limitation for filing an application for correcting UDR error. The first respondent erred in relegating the enquiry to the Tahsildar. Therefore, the order impugned in the writ petition is set aside on the ground that the jurisdiction that has been specifically vested with the District Revenue Officer will have to be exercised only by him.

10. In this view of the matter, the order impugned dated 29.08.2017 is set aside and District Revenue Officer, Theni, is called upon to pass appropriate orders in accordance with law on the petitioner's application dated 15.03.2011. Such an order shall be passed within a period of twelve weeks from the date of receipt of a copy of this order. The order passed by the Revenue Divisional Officer, Periyakulam, on 19.08.2013 and the order passed by the Tahsildar, Andipatti on 16.05.2011 are set aside as a consequence. This Court has not gone into the merits of the matter.

11. Accordingly the Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The District Revenue Officer,
Theni District,
Theni.

2. The Revenue Divisional Officer,
Periyakulam Division,
Periyakulam,
Theni District.



3.The Tahsildar,
Andipatti Taluk,
Andipatti,
Theni District.

+1cc to Mr.P.SIVACHANDRAN, Advocate, SR.No. 54828

W.P. (MD) No.1316 of 2018
18.03.2019

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RMK

KK/SAR-/01.04.2019/4P-5C