IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2020

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.NO.17539 OF 2013
AND
M.P.NO. 1 OF 2013

1. M.Dhamodhara Gounder (Deceased)
2. Subbulakshmi
3. Nagarathinam
4. Palanisamy ...Petitioners

[Petitioners 2 to 4 are substituted as legal heirs of the deceased 1st petitioner]

-vs-

1. The Tahsildar,
Perundurai Taluk,
Erode District.

2. The District Revenue Officer,
Erode District, Collectorate,
Erode – 638 011.

3. M.Periyana Gounder ... Respondents

Petition under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records relating to the order made in நக.உ.எண். 12955/2011 dated 27.05.2013 on the file of the District Revenue Officer, Erode District/second respondent herein and quash the same.

For Petitioners: Mr.R.Arun Dattan

For Respondents: Mr.N.Srinivasan
Additional Govt. Pleader [R1 & R2]

Mr.K.S.Jeya Ganesan [R3]

ORDER

Heard Mr.R.Arun Dattan, learned for petitioner, Mr.N.Srinivasan, learned Additional Government Pleader for 1st and 2nd respondents and Mr.K.S.Jeya Ganesan, learned counsel for 3rd respondent.

2. With consent of learned counsel on either side, the writ petition itself is taken up for final disposal.

3. The petitioner is aggrieved by the order passed by the second respondent dated 27.05.2013, by which, on a revision petition filed by the 3rd respondent, challenging the order passed by the Revenue Divisional Officer dated 24.10.2009 the same was set aside.

4. The dispute between the petitioner and the third respondent, who are brothers, is with regard to the extent in a property which was partitioned pursuant to a deed of partition. The 3rd respondent approached the first respondent stating that the extent of property mentioned in the patta granted to the petitioner in patta No.64 in respect of survey No.39/1 is incorrect.

5. The first respondent Thasildar, Perundurai Taluk allowed the said petition and accordingly made entries, which enured in favour of third respondent. Aggrieved by the same, the petitioner preferred an appeal before the Revenue Divisional Officer, Erode. The said authority by order dated 08.10.2010, set aside the order passed by the Thasildar and restored the entries as it originally stood. Aggrieved by the same, the third respondent filed a revision before the second respondent, which has been allowed by the impugned order.

6. On a perusal of the impugned order, it is seen that it is a detailed order and the authority had granted adequate opportunity to the petitioner and the third respondent. The sum and substance of the conclusion arrived at by the second respondent in the impugned order has been clearly set out in the counter affidavit filed by the first respondent and the following would be relevant:

> "i) The Revenue Divisional Officer, Erode has mentioned in his order that in heritage an extent of 1.14.0 hetares in R.S.No.39/1 and an extent of 1.18.0 hetares in R.S.No.43/3 are exclusively owned to Thiru Damadhara Gounder and his separate possession as per the patta No.64. This is wrong. Even though the Re-survey No.39/1

was correlated to the Old S.F.No.112, 113pt and 105pt and in this S.F.No.113, an extent of 0.20 Cent field was owned to Thiru Periyanna Gounder son of Muthusamy Gounder as per the document No.1226/1968, it was cleared that the Revenue Divisional Officer has not complied the same with the old records and ordered.

ii) On verification of the Partition Deed bearing No.1226/68 dated 12.07.1968 it was evidently known that an extent of 1.53 in Old Survey No.935 of Vadamugam Vellode Village and an extent of 1.12 Acres in Old Survey No.112 & an extent of 0.20 cents in Old Survey No.113 of Mukasipulavanpalayam village were owned to Thiru M.Periyanna Gounder and the decision taken by the Revenue Divisional Officer, Erode in this regard are correct.

iii) To find out the fact the combined sketch has been prepared consisting of the old survey numbers relevant to the suit property, the suit property R.S. 39/1 was only correlated to the Old Survey No.112 in exist in the village accounts. As noted in the proceedings of the Revenue Divisional Officer, Erode that the old Survey No.112 correlated to the New Re-Survey No.39/1 was incorrect. When compared the partition deed and other records of the new survey numbers with the old survey numbers together with the combined sketch prepared it was found that the new Survey No.39/1 was correlated only to the old survey No.113.

iv) The old survey No.112 related to the Re-survey No.39/1 as recorded in the A-Register was incorrect since the full extent of R.S.No.39 (full field) was 9.30 Acres and the extent of old Survey No.112 was 8.98 Acres. There was an extent of 0.32 Acres excessively. It was confirmed from the combined sketch prepared that the extent of 0.32 Acres in excess was taken away from the old survey Nos.113 and 105. Hence it was clearly known that the old survey Nos.112, 113 Pt. And 105 Pt are only correlated to the New Survey No.39/1.

v) On the above conclusion it was proved based on the records and combined sketch prepared that an extent of 0.30 cents of Re-

> survey No.39/1 is correlated to the old survey Nos.112,113 pt. and 105 Pt and this field was exclusively owned to the appellant (Thiru Periyanna Gounder) as per the partition deed. Based on this, it was ascertained that the order passed by the Revenue Divisional Officer, Erode for having included the name of M.Damodhara Gounder instead of deleting the name of Thiru.M.Periyanna Gounder was erroneous."

7. The petitioner has not been able to substantiate in this writ petition that the above factual finding rendered by the second respondent is either perverse or illegal. The mistake ought to have occurred only during the recent revision proceedings and combined sketch has been prepared and after preparation of the said combined sketch correlation has been done and it was found that the extent is 0.30 cents in re-survey No.39/1 is corelatable to late survey Nos. 112, 113 part, 105 part and this is exclusively owned by the third respondent in terms of the partition deed. Therefore, there is no error in the order passed by the second respondent, which has been passed after affording due opportunity to the petitioner and after thorough verification of the revenue records as well as the re-survey records and after preparation of combined sketch.

Thus, this Court finds no grounds to interfere with the impugned order. The writ petition stands dismissed. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To
1. The Tahsildar, Perundurai Taluk, Erode District.
2. The District Revenue Officer,
Erode District, Collectorate, Erode - 638 011.

+1cc to Mr.R.Arun Dattan, Advocate, S.R.No.901
+1cc to Mr.K.S.Jeya Ganesan, Advocate, S.R.No.343
+1cc to the Government Pleader, S.R.No.1004

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and M.P.No.1 of 2013

KK(CO)
CS/20/02/2020