



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **22.09.2020**

CORAM

THE HONOURABLE MR.JUSTICE **D.KRISHNAKUMAR**

W.P. (MD) No.7595 of 2020

and

W.M.P. (MD) Nos.7092 and 7093 of 2020

WEB COPY

- 1.Muthumanikandan
- 2.Vijayalakshmi
- 3.Kaleeswari
- 4.Suseendran

... Petitioners

Vs.

1. The District Revenue Officer,
Ramanathapuram District,
Ramanathapuram.
2. The Sub Collector,
Paramakudi, Ramanathapuram District.
3. The Tahsildar,
Kamuthi Taluk, Ramanathapuram District.
- 4.Hariramamoorthy

- 5.Mari

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating with the impugned order passed by the first respondent in his proceedings in Pa.Mu.(B5)/29223/2019, dated 04.06.2020, confirming the order of the second respondent made in his proceedings Pa.Mu.(B2)/1418/2012, dated 12.08.2016 and quash the same as arbitrary and illegal and in consequence directing the respondents 1 to 3 to restore the patta relating to the sub-divisions of the land in S.No.327/3A in Nariyan Subarayapuram Village, Abiramam Group, Ramanathapuram District, as it stood before the proceeding of the second respondent in Pa.Mu.(B2)/1418/2012, dated 12.08.2016.

For Petitioner : Mr.R.Suriyanarayanan

For R1 to R3 : Mr.P.Kannidevan,
Additional Government Pleader.

For R4 : Mr.C.Gangai Amaran

For R5 : Mr.K.Vijayanand



ORDER

This writ petition is filed challenging the impugned order passed by the first respondent in his proceedings in Pa.Mu.(B5)/29223/2019, dated 04.06.2020 and confirming the order of the second respondent by his proceeding in Pa.Mu.(B2)/1418/2012, dated 12.08.2016 and to direct the respondents 1 to 3 to restore the patta relating to the sub-divisions of the land in S.No.327/3A, in Nariyan Subarayapuram Village, Abiramam Group, Ramanathapuram District.

2.The learned counsel appearing for the petitioners submitted that the property, in Survey No.327/3A situated at Subarayapuram Village, Abiramam Group, Ramanathapuram District, belongs to one Ramayee Ammal. Ramayee Ammal sold the said property to Rengammal and three others by way of sale deed dated 21.08.1959. Thereafter, the property was sub divided. By way of registered partition, the subject property was transferred in favour of Rengammal. Out of 1 acre 30 cents, Rengammal sold 62 cents to the first petitioner by way of registered sale deed dated 06.04.2010. Out of 62 cents, the first petitioner decided to sell a portion of land to the petitioners 2 to 4 and fifth respondent. Thereafter, the property in Survey No.327/3A has been sub divided in respect of the petitioners and fifth respondent. When the fourth respondent came to know that during entry in the UDR, Muthayee name is added with Rengammal, the fourth respondent gave a petition before the second respondent to cancel the sub division and patta in respect of Survey No.327/3A on the ground that the description of the property is not correct. The second respondent, without giving opportunity to the petitioners 1 to 4, passed a direction that the revenue authorities to cancel the sub division and restore the patta as per UDR. Aggrieved by the same, the petitioners filed revision petition before the first respondent. The first respondent, while dismissing the petition, confirmed the order of the second respondent.

3. The petitioner's counsel further submitted that the first respondent while dismissing the revision of the petitioner, by raising maintainability, on the ground of limitation, cannot dispose the same on merits but confirmed the order of the second respondent. According to the learned counsel for the petitioner an opportunity was not given to the petitioner to explain the delay for filing the revision. Therefore, the impugned order passed by the first respondent is liable to be set aside.

4.The learned Additional Government Pleader appearing for the respondents 1 to 3 submitted that the first respondent/ District Revenue Officer passed the impugned order vide proceedings in Pa.Mu. (B5)/29223/2019, dated 04.06.2020, on the ground that the petitioner has not filed the revision within 30 days from the date of receipt of the order of the second respondent.



5.The learned counsel appearing for the fourth respondent filed a counter-affidavit, wherein it has been stated that as per decision laid down by the Honourable Apex Court with regard to the disputes pertaining to title and location of the property, they should only approach the Civil Court by appointing an Advocate Commissioner as well as appointing a surveyor to survey as per Village Register. Without approaching the Civil Court, the petitioners have filed this petition. Hence, he prayed for dismissal of the writ petition.

6. Heard the learned counsel on either side and also perused the materials placed on records.

7. Considering the aforesaid facts and circumstances, the impugned order passed by the second respondent dated 12.08.2016, the revision was filed by the petitioners on 30.07.2019 and the first respondent rejected the same on 04.06.2020, this Court is of the view that an opportunity was not granted to the petitioners to explain the delay for filing the revision. Therefore, the impugned order passed by the first respondent in Pa.Mu.(B5)/29223/2019, dated 04.06.2020 is set aside. The first respondent is directed to consider the said application filed by the petitioners and pass appropriate orders on merits and in accordance with law, after affording due opportunity to the petitioners as well as the private respondent. Such an exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

8.This Writ Petition is disposed of on the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Records)

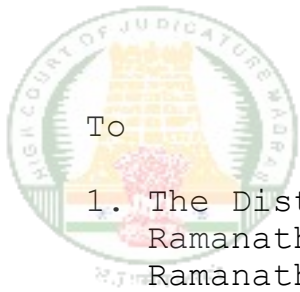
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Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

1. The District Revenue Officer,
Ramanathapuram District,
Ramanathapuram.
2. The Sub Collector,
Paramakudi, Ramanathapuram District.
3. The Tahsildar, Kamuthi Taluk,
Ramanathapuram District.

+1 CC to Mr.R.SURIYANARAYANAN, Advocate SR-17812.

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KG (CO)
CS (07.10.2020) 4P 5C