



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

AND

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

WEB COPY

W.A(MD)No.1579 of 2021
and C.M.P(MD)No.6646 of 2021

S.Mohammed Ibrahim

... Appellant / Petitioner

Vs.

1.The District Collector,
Collectorate Campus,
Theni, Theni District.

2.The District Revenue Officer,
O/o.The District Revenue Office,
Collectorate Campus,
Theni, Theni District.

3.The Revenue Divisional Officer,
O/o.The Revenue Divisional Office,
Periyakulam, Theni District.

4.The Tahsildar,
O/o.The Tahsildar,
Periyakulam, Theni District.

5.K.S.Singaravelu

6.K.S.Subravelu

7.M.Krishnan

8.B.Jahanmohan

... Respondents / Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order, dated 05.08.2020 made in W.P(MD)No.7545 of 2019 on the file of this Court.

Prayer in WP(MD). 7545/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of mandamus, to direct the 2nd respondent to rectify the errors crept in UDR Survey as Cart Road (நில வியல்பாதை) in the petitioners property comprised in Survey Numbers. 495/2, 496/2, 497/3C, 498/2, 499/2 To an extent of 29 Acres in Yendapuli Panchayat, Kamatchipuram Village, Periyakulam Taluk, Theni Dt.



For Appellant : Mr.M.Ajmal Khan
Senior Counsel
for M/s.Ajmal Associates

For RR 1 to 4 : Mr.P.Thilak Kumar
Standing Counsel for the Government

For RR 5 to 8 : Mr.V.Janaki Ramulu

JUDGMENT

(Judgment of the Court was delivered by
M.DURAISWAMY, J.)

Challenging the order, dated 05.08.2020, passed in W.P(MD) No.7545 of 2019, the Writ Petitioner, who is the subsequent purchaser of the land in Survey Nos.495/2, 496/2, 497/3C, 498/2 and 499/2 measuring to an extent of 29 acres in Yendapuli Panchayat, Kamatchipuram Village, Periyakulam Talu, Theni District, has filed the above Writ Petition to issue a Writ of Mandamus, directing the second respondent to rectify the errors crept in UDR survey ass "cart road" (epypay; ghij) in the said petitioner's property.

2.The learned Single Judge, by order dated 05.08.2020, dismissed the Writ Petition on the ground that the petitioner being a purchaser of the property cannot claim the individual right to rectify the error crept in UDR survey. Further, the learned Single Judge observed that the petitioner as a purchaser has not made objection before the jurisdictional revenue officer while classification of the said property as "cart road".

3.Admittedly, the appellant, who has filed the Writ Petition, has purchased the property on 27.11.1999. When the appellant had purchased the property in the year 1999, after the purchase he stepped into the shoes of the vendor and in the event of any error in the UDR survey, it is open to the appellant to quash the same the same in accordance with law.

4.Mr.M.Ajmal Khan, learned Senior Counsel appearing for the appellant submitted that the appellant along with one Tmt.M.Sahira Banu, filed a suit in O.S.No.83 of 2019 on the file of the Sub Court, Periyakulam, for the very same relief sought for in the Writ Petition. Therefore, inspite of passing any order in the Writ Appeal, it would be suffice to give liberty to the plaintiffs in O.S.No.83 of 2019 to prosecute the suit and get appropriate decree in accordance with law.



5.Mr.P.Thilak Kumar, learned Standing Counsel for the Government appearing for the respondents 1 to 4 submitted that such liberty can be granted to the appellant.

6.Mr.V.Janakiramulu, learned counsel appearing for the respondents 5 to 8 also submitted that he has no objection for giving such liberty to the appellant.

7.In view of the submissions made by the learned counsel on either side, without going into the merits of the order passed in the Writ Petition, we give liberty to the plaintiffs in O.S.No.83 of 2019 to prosecute the suit on merits and in accordance with law and the trial Court shall decide the issues involved in the suit on merits and in accordance with law, uninfluenced by the order passed in the Writ Petition in W.P(MD)No.7545 of 2019, dated 05.08.2020.

8.With these observations, the Writ Appeal is disposed of. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

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 Sub Court,
Periyakulam,
Theni District.

2.The District Collector,
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5.The Tahsildar,
O/o.The Tahsildar,
Periyakulam,
Theni District.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-26338[F] dated
16/08/2021)

+1 CC to M/s.GP (SR-26524[F] dated 17/08/2021)

+1 CC to M/s.V.JANAKIRAMULU, Advocate (SR-26576[F] dated
17/08/2021)

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