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IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 10.03.2022**

CORAM :

**THE HONOURABLE MR. JUSTICE M. DHANDAPANI**

**W.P.No.30917 of 2013**

Boopathi ...Petitioner

Vs.

1.The District Collector,
Namakkal.

2.The District Revenue Officer,
Namakkal.

3.Samiappan
4.Palaniammal
5.R.Palaniappan ... Respondents

[R5 is impleaded as per order dated 09.08.2019 made in W.M.P.No.23300 of 2019 in W.P.No.30917 of 2013]

**Prayer :** Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records with regard to the proceedings of the 2nd respondent dated 12.12.2012 in Na.Ka.No.32832-2011-01 and quash the same, consequently, direct the 2nd respondent to rectify the error occurred in all the revenue records with respect of the extent of the property exists in SF.No.63/8 at Molasi Village, Thiruchengode Taluk.

For Petitioner : Mr.R.Nalliyappan
For R1 & R2 : Mr.G.Nanmaran
Special Government Pleader
For R5 : Mr.S.Viswanathan

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**O R D E R**

This Writ Petition has been filed seeking for issuance of a Writ of Certiorarified Mandamus to call for the records with regard to the proceedings of the 2nd respondent dated 12.12.2012 in Na.Ka.No.32832-2011-01 and quash the same and consequently to direct the 2nd respondent to rectify the error occurred in all the Revenue Records with respect of the extent of the property that exists in SF.No.63/8 at Molasi Village, Thiruchengode Taluk.

2. The case of the petitioner is that the petitioner's father, namely Kumarasamy and the 3rd respondent are brothers. The 4th respondent is the adjacent land owner of the petitioner. The petitioner's father and the 3rd respondent acquired some property in SF.No.63 at Molasi Village, Thiruchengode Taluk and the said property is ancestral property and in the year 1968, they jointly purchased 1.70 acres. While so, the petitioner's father and the 3rd respondent had taken equal shares of 3.40 acres each. Thereafter, the property allotted to the petitioner's father was sub-divided as SF.No.63/8 and the 3rd respondent obtained the property in SF.No.63/9. After the demise of the petitioner's father, the petitioner has taken over the possession of the property acquired by his father. Later, on verification of the Revenue

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Records, the petitioner came to understand that there were some errors that had occurred at the time of Updated Record (UDR), thereby reduced the extent of the property that exists in SF.No.63/8, which was acquired by the petitioner. In order to rectify the said error, the petitioner has made a representation dated 18.10.2011 before the 2nd respondent. Thereafter, 2nd respondent has passed the impugned order dated 12.12.2013 by rejecting the claim of the petitioner, stating that the error is below 5% and there is no need for any rectification in terms of the provisions of the Tamil Nadu Chain Survey and Land Records Manual Part I, Page 76. Challenging the same, the present Writ Petition is filed.

3. The learned counsel for the petitioner submits that admittedly the petitioner's father acquired the property by way of sub division in SP.No.63/8 to a extent of 3.40 acres. He also submits that the petitioner has made a claim before the 2nd respondent requesting to alter the extent of the said property by verifying with the records and the actual extent of the property which is under the possession of the petitioner. Further, he submits that the petitioner has categorically stated that the properties were equally partitioned between the petitioner's father and the 3rd respondent. However, without considering the same, the 2nd respondent passed the impugned order by rejecting the claim of

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the petitioner, which is not sustainable. Hence, he prayed to quash the impugned order passed by the 2nd respondent.

4. The learned Counsel for the 2nd respondent has filed a counter affidavit and the relevant portion of it reads as follows :-

> *"Before proceeding further, a detailed report was called for from the Inspector of Survey, Tiruchengode. After made thorough inspection and verification of the Revenue records the Inspector of Survey submitted his report that there are no variations in the actual area and registered area as per the revenue records in S.Nos.63/4, 5 & 7 but, there are small variations in another sub-divisions including the petitioner's land in survey No.63/8, totally the variation is below 5% with reference to the S.No.63.*
>
> *It is submitted that in this regard, the following provision of the Tamilnadu Chain Survey and Land Records Manual Part I, Page 76 is extracted below for ready reference:-*
>
> > *"(a) Where the difference between the actual area and the registered area of either the entire survey field or of its component subdivisions does not exceed 5 percent, no alteration should be made in the registered area".*
>
> *After conducting enquiry with the co-pattadars, perusing the relevant rules and coming to the subjective*

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*satisfaction that the representation made by the petitioner deserves no consideration the impugned order was passed by the second respondent. Further, action could not be taken even one pattadar objects the clubbing. It is also pertinent to point out the fact that evenafter Section 13 Notification under Tamilnadu Survey & Boundaries Act was published, the writ petitioner did not made any objection within 3 years after the publication of the said notification.*

*(4) I respectfully submits that the averments made in para 3 of the affidavit are not correct. In fact as per the Revenue records the extent of registered area in respect of S.No.63 is 4.13.0 hec. but whereas the extent under enjoyment on ground is 4.09.5 hec. and thus there is a variation of 0.03.5 hec. which is within the difference of 5% between registered area and actual area. Hence, the area already registered was adopted in the Revenue records."*

5. The learned counsel for the 5th respondent submits that for the very same dispute, the 5th respondent has filed a suit in O.S.No.77 of 2015 on the file of the Sub Court, Thiruchengode impleading the petitioner as well as the 2nd and 4th respondents herein as defendants and the same is still pending.

6. Heard the learned counsel appearing for the parties and perused the materials available on records.

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7. However, the learned counsel for the 5th respondent fairly submits that this Court may permit the 5th respondent to canvass all the points before the Civil Court in the said suit filed by him.

8. Considering the facts and circumstances of the case and on a perusal of the petitioner's representation, it is clear that the petitioner did not mention anything about the measurement and the extent which he possessed and what is available in Updated Record (UDR). However, in the absence of any measurement in his representation dated 18.10.2011, expecting the 2nd respondent to rectify the error occurred in all the Revenue Records with respect of the said property, is not maintainable. Hence, the prayer sought for by the petitioner cannot be granted.

9. Accordingly, the Writ Petition is dismissed. However, liberty is granted to the petitioner to work out the remedy in the manner known to law. No costs.

**10.03.2022**

Index : Yes / No
Internet : Yes / No
Speaking order / Nonspeaking order

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To

1.The District Collector,
Namakkal.

2.The District Revenue Officer,
Namakkal.

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**M.DHANDAPANI, J.**

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