



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.06.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.10975 of 2021

and

W.M.P(MD)Nos.8610 & 8611 of 2021, 2145 of 2022

WEB COPY

1.Govindammal

2.Kaliammal

3.Kannan

4.Govindaraj

5.Karuppiah

6.Nallu Muniswari

... Petitioners

Vs.

1.The District Revenue Officer,
District Collector Office Campus,
Virudhunagar District.

2.The Sub Collector cum Revenue Divisional Officer,
Sivakasi Taluk,
Virudhunagar District.

3.The Tahsildar,
Sivakasi Taluk,
Virudhunagar District.

4.Paulraj

5.Krishnammal

6.Gurusamy thevar

7.Saravana Raja

8.Ganapathiyammal

9.Vishalatchi

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the first respondent office vide office proceedings in Ni.Mu.A2/20722/2020 dated 26.02.2021 confirming the order of the second respondent office vide office proceedings in Ni.Mu.A.1/469/2019 dated 05.09.2020 and quash the same as illegal and consequently, direct the respondents 1 to 3 to restore the Patta in favour of the petitioners within a stipulated time that may be fixed by this Court.



For Petitioners: Mr.R.Karunanidhi

For Respondents: Mr.M.Sarangan
Additional Government Pleader for R.1 to R.3

Mr.G.Rajendran for R.4 & R.5

Mr.A.Rahul for R.7

Mr.S.Raja Jeyachandranpaul for R.9

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ORDER

Heard the learned counsel appearing for the writ petitioner, the learned Additional Government Pleader appearing for the respondents 1 to 3, the learned counsel appearing for the respondents 4 and 5 and the learned counsel appearing for the seventh respondent.

2.The case on hand pertains to Survey No.1166/2A in Enjaar Village Sivakasi Taluk, Virudhunagar District, measuring 2.5 hectares. There is no dispute that the said property originally belonged to one Veeru Thevar. The petitioners claimed to be the grand-daughters of the said Veeru Thevar. According to them, the land was erroneously transferred in the names of the private respondents herein. Therefore, they sought mutation of revenue records. Based on their request, the Head Quarters Deputy Tahsildar, Sivakasi, issued an order dated 12.08.2016 incorporating the names of the writ petitioners in the revenue records. Questioning the same, the private respondents herein filed an appeal before the Sub Collector, Sivakasi. The appellate authority vide order dated 05.09.2020 set aside the order passed by the Head Quarters Deputy Tahsildar, Sivakasi and allowed the appeal filed by the private respondents herein. Challenging the same, the petitioners herein went before the District Revenue Officer, Virudhunagar, who by the impugned order dated 26.02.2021 confirmed the order passed by the Sub Collector, Sivakasi. Challenging the same, the present writ petition came to be filed.

3.The private respondents have filed a counter affidavit opposing the writ prayer and they have also filed a typed set of papers. The learned counsel appearing for the writ petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and took me through the materials enclosed in the typed set of papers. He called for setting aside the impugned order and restoring the order passed by the original authority.

4.Per contra, the learned Additional Government Pleader and the learned counsel appearing for the private respondents submitted that the impugned order does not call for any interference.

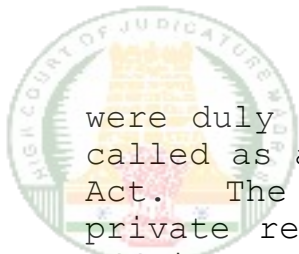


5.I carefully considered the rival contentions and went through the materials on record. There is consensus on both sides that the property originally belonged to one Veeru Thevar. The case of the private respondents is that Veeru Thevar and his son Veerappa Thevar along with his son Eswara Thevar executed a sale deed dated 08.08.1953 in favour of one Chidhambara Mudaliyar conveying 5 acres and 9 cents of the subject property. Following his demise, it devolved on his son Ramanatha Muthaliar. The said Ramanatha Muthaliar sold the property in question in two parcels in favour of the parents of the fourth respondent and the parents of the seventh respondent in the year 1958 under Document No.1619/1958 dated 30.08.1958 and Document No. 2249/1958 on 23.11.1958. The said Survey Number totally measures 6.78 acres. It has already been noted that the 5.9 acres was already parted with. The remaining 1.69 acres is said to have been allotted to Backiyammal, sister-in-law of Veeru Thevar. From the said Backiyammal, the parents of the fourth respondent had purchased the remaining 1.69 acres under sale deed dated 29.11.1958. Based on the aforesaid three sale transactions, mutations were made in the revenue records. There is no dispute that the revenue records reflect the name of either the private respondents or their parents.

6.The allegation of the writ petitioners herein is that Veeru Thevar had passed away in the year 1949 itself and that therefore, he could not have been one of the vendors in the two sale deeds. He could not have been a party to the sale deed executed in favour of one Chidambara Mudaliyar. In support of their contentions, they produced a death certificate issued on 08.07.2020. Earlier, the petitioners have obtained a legal heir certificate on 24.05.2016 indicating that they are the daughters of Veerappa Thevar. Based on the legal heir certificate, the Head Quarters Deputy Tahsildar, Sivakasi made mutation on 12.08.2016 in favour of the writ petitioners.

7.The learned counsel appearing for the private respondents would strongly assert that the death certificate subsequently obtained by the writ petitioners is a rank forgery. I do not want to go into the said controversy at present. It is beyond dispute that the order dated 12.08.2016 was passed behind the back of the private respondents herein. When the private respondents herein were shown as incumbent pattadars, without notice them, their names, could not have been deleted or the names of the writ petitioners substituted.

8.Therefore, this single circumstance is sufficient to sustain the order impugned in the writ petition. But that cannot be the only way of approaching the issue. The private respondents have anchored their case on registered sale transactions that date back to more than sixty years. In view of Section 60 of the Registration Act, that all the formalities regarding the registration



were duly complied with. In the very nature of things, they can be called as ancient documents as per Section 90 of the Indian Evidence Act. The revenue records have been standing in the names of the private respondents for several decades. Such a settled state of affairs cannot be casually unsettled by the revenue authority. If according to the writ petitioners, they are in possession of the land in question or that the title deeds relied on by the private respondents are rank forgery vitiated by impersonation, the petitioners will have to necessarily move the jurisdictional civil Court for relief. By approaching the revenue authority, the writ petitioners herein have tried to short circuit the entire process. Therefore, on these twin grounds, I sustain the order impugned in the writ petition. I make it clear that I have not gone into the merits of the matter. If the petitioners are aggrieved, they have to necessarily establish their rights only before the jurisdictional civil Court.

9.This writ petition stands dismissed with the aforesaid liberty to the petitioners. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar(CS-I)

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/06/2022

Sub Assistant Registrar(CS)

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To:

1.The District Revenue Officer,
District Collector Office Campus,
Virudhunagar District.

2.The Sub Collector cum Revenue Divisional Officer,
Sivakasi Taluk, Virudhunagar District.

3.The Tahsildar, Sivakasi Taluk,
Virudhunagar District.

+1 CC to M/s.A.RAHUL, Advocate (SR-25244[F] dated 13/06/2022)

+1 CC to M/s.SPL GP (SR-25448[F] dated 13/06/2022)

+1 CC to M/s.R. KARUNANIDHI, Advocate (SR-25613[F] dated 14/06/2022)

+2 CC to M/s.S. RAJA JEYA CHANDRA PAUL, Advocate (SR-25628[F] dated 14/06/2022)

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10.06.2022

nsn(CO)

TR(28.06.2022) 4P 9C