



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.09.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

**W.P(MD)No.20311 of 2013
and
MP(MD)No.2 of 2013**

R.Gopalthevar (died)

G.Muthuramalingam

... Petitioner

(Substituted vide order dated 31.03.2023)

Vs.

1.The District Collector,
Tirunelveli District, Tirunelveli.

2.The Revenue Divisional Officer,
Tenkasi, Senkottai Taluk, Tirunelveli District.

3.The Tahsildar, Senkottai,
Tirunelveli District.

4.M.A.Rajarajan

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari to call for the records relating to the impugned orders passed by the first respondent dated 09.10.2023 in Na.Ka.No.A2/RP No.10/11 and order passed by the second respondent dated 03.02.2011 in Mu.Mu.A4/10646/2010 and quash the same as illegal and thus render justice.



For petitioner : Mr.N.Dilipkumar

For Respondents : Mr.S.Shanmugavel,
Additional Government Pleader for R1 to R3

No appearance for R4

ORDER

Heard the learned counsel for the petitioner and the learned Additional Government Pleader for R1 to R3. Though the contesting respondent has been served and he is also engaged by a counsel, there is no appearance on his behalf.

2.The subject matter pertains to Survey No.385/2, Vadakarai Keelpidagai Village, Senkottai Taluk. It measures an extent of 31 cents. Before UDR, it stood in the name of Periya Ramaiah Thevar. The said position continued after UDR also. After the demise of Periya Ramaiah Thevar, the name of Gopalthevar was entered. At this stage, the fourth respondent and others submitted an application before the Tahsildar, Senkottai. Since two cents in the said survey number housed tombs of ancestors and poojas have to be performed, it should be set apart for common use. They, therefore, submitted that individual patta could not have been issued and that the said survey number should reflect the names of the other pangalis. The application of the



fourth respondent was accepted and allowed by the Tahsildar, Sengottai for two cents. Aggrieved by the same, Gopal Thevar filed an appeal before the RDO, Tenkasi. The RDO, Tenkasi confirmed the order of the Tahsildar. Gopal Thevar went after the DRO, Tirunelveli who dismissed the revision vide proceedings dated 09.10.2013. Challenging the same, this present writ petition came to be filed.

3.The official respondents have filed counter affidavit and the learned Additional Government Pleader took me through its contents. The learned Additional Government Pleader submitted that the impugned order is a well reasoned one and it does not warrant any interference. The fourth respondent did not file any counter affidavit.

4.During the pendency of this writ petition, the original writ petitioner R.Gopal Thevar passed away and his son Muthuramalingam was brought on record. On the last occasion, I posed a specific question to the learned counsel for the petitioner that since in the partition deed dated 15.11.1954, there is a specific reference to the Samadhi, as to how the petitioner could insist on separate patta. The learned counsel for the petitioner submitted that if the said survey number totally measured only two cents, the petitioner would not have



any issue. Since the said survey number measures 31 cents, the petitioner legitimately apprehends interference of his possession and enjoyment at the hands of his Pangalis. He also would point out that in the remaining extent of land, cultivation is regularly going on. Only to protect the standing crops, the petitioner wants the impugned order to be set aside.

5.I, thereupon, wanted to know as to where the Samadhi is exactly situated. The learned Additional Government Pleader called upon the officials to make a spot inspection. They filed a report also. Photographs showing the said Samadhi have been produced. It is seen that the Samadhi abuts the main road. Therefore, joint patta can be claimed by the fourth respondent and other pangalis only for two cents and not for the entire 31 cents. I, therefore, direct the Tahsildar, Sengottai to earmark two cents of land on which the Samadhi is located. Sub division shall be done. Joint patta shall be issued in favour of Madathevar Vagaiyara for the two cents of land alone. At this stage, it is stated by the petitioner's counsel that the petitioner had already put up a motor pump for harvesting the agricultural lands. When the two cents of land is earmarked, it shall exclude the pump area. Rough sketch has also been filed before this Court. When the sub division is made by the Tahsildar, it shall be based thereon.



6.The learned counsel for the petitioner submitted that since Gopal Theyar has passed away, the revenue record stood mutated by including the names of all the legal heirs and that the other legal heirs have executed a settlement deed in favour of Muthuramalingam, the petitioner herein vide Doc No.1931 of 2017 on the file of the SRO, Tenkasi dated 03.11.2017. Therefore,, the Tahsildar, Sengottai will issue patta in favour of Mr.Muthuramalingam exclusively on being satisfied about the genuineness of the said settlement deed.

7.This writ petition is allowed. No costs. Connected miscellaneous petition is closed.

25.09.2023

Index : Yes / No
Internet : Yes/ No
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To

- 1.The District Collector, Tirunelveli District, Tirunelveli.
- 2.The Revenue Divisional Officer,
Tenkasi, Senkottai Taluk, Tirunelveli District.
- 3.The Tahsildar, Senkottai,
Tirunelveli District.



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G.R.SWAMINATHAN, J.

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