

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.03.2023

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

**W.P.(MD)No.865 of 2022
and
W.M.P.(MD)No.696 of 2022**

1. S.Rajendran
2. Logarani

... Petitioners

Vs.

1. The District Revenue Officer,
Theni District,
Theni.
2. The Revenue Divisional Officer,
Uthamapalayam,
Theni District.
3. The Tahsildar,
Uthamapalayam,
Uthamapalayam,
Theni District.
4. Uthayasuriyan

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records relating to the impugned order passed by the first respondent in Na.Ka.No. 24006/2016/T4, dated 12.10.2021 and quash the same.

For Petitioners : Mr.K.Guhan

For Respondents : Mr.N.Muthu Vijayan
Spl. Govt. Pleader for R1 to R3
Mr.K.Surendran for R4

O R D E R

This Writ Petition has been filed in the nature of Certiorari seeking records relating to the impugned order passed by the first respondent, District Revenue Officer, Theni District, in Na.Ka.No. 24006/2016/T4 dated 12.10.2021 and to quash the same.

2. In the affidavit filed in support of the Writ Petition, the petitioners had stated that the lands in S.Nos.642/3 and 642/4 measuring 1.05.0 Hectares and 0.11.15 Hectares respectively situated at Karunkattankulam, Uthamapalayam Taluk, Theni District, originally belonged to Periyakaruppan, S/o.Muthumaya Thevar. It is stated that he had no issue and he had no children. He had executed a gift settlement deed in

favour of the first petitioner / nephew on 28.08.1985. The first petitioner claims that he is in enjoyment and possession of the property. Periyakaruppan is said to have died in the year 1991. The first petitioner then executed a gift settlement deed in favour of his wife, the second petitioner Logarani. The settlement deeds are in dispute. A dispute is raised by the fourth respondent. Both the petitioners and the fourth respondent belong to one family, though not directly related but are agnates. The property had not been divided by metes and bounds. Therefore, the fourth respondent, questioned the execution of the gift settlement deed itself in favour of the petitioners herein.

3. In view of the fact that the petitioners had obtained patta, the fourth respondent had instituted proceedings for cancellation of patta. The matter finally went before the second respondent / Revenue Divisional Officer, Uthamapalayam, at Theni District.

4. The second respondent, by an order, dated 29.06.2006 in Pa.Mu.No.2847/2015/A4 cancelled the patta granted in favour of the

petitioners herein. Challenging that particular order, the petitioners filed a further revision before the first respondent, namely, District Revenue Officer at Theni district. The order passed by the District Revenue Officer dismissing that particular revision filed by the petitioners herein is put in test before this Court.

5. Mr.K.Guhan, learned counsel for the petitioners stated that there was a finding by the first respondent about the documents available by the petitioners and the fourth respondent and about the patta. It is stated that after giving that particular finding, however quite wrongly, the revision petition was dismissed.

6. Finally, it had been stated that both the parties will necessarily have to file a civil Suit for establishing title for determining possession and thereafter, if both are found to have equal and valid title for division of the property in metes and bounds. These are exercises which can be determined and adjudicated only by the competent civil Court.

7. It is stated by the learned counsel for the petitioners that in view of the order of the first respondent, the civil Court might give a finding as against the petitioners herein. But let me make it very clear that every civil Court should give its finding only on the basis of the evidence adduced before the said Court, where the documents which are presented and are subjected to cross-examination. The oral evidence can also be subjected to cross-examination.

8. I am confident that no Civil Judge would render a finding merely because of a particular finding given by the revenue authorities. The civil Court would independently apply its mind to the facts of the case to the pleadings and evidence and come to a conclusion.

9. After the civil Court renders its judgment, I give liberty to both the petitioners and the fourth respondent to approach the first respondent again in accordance with the judgment delivered by the civil Court with respect of mutation of the name in the revenue records.

10. These are the issues which have to be examined only by the civil Court in the first instance, and thereafter, the revenue authorities will have to give a decision. The first respondent had correctly stated that it is only appropriate that the parties must go before the civil Court to adjudicate all issues. Either the petitioners or the fourth respondent must file a suit before the competent jurisdictional civil Court to agitate their issues. This Court cannot interfere with the order of the first respondent at the present stage.

11. Since directions are given, though the order is not set aside, the Writ Petition stands disposed of. Consequently, connected Miscellaneous Petition is closed. There shall be no order as to costs.

27.03.2023

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No

vji

To

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Theni.
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Theni District.
3. The Tahsildar,
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