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W.P.(MD)NO.5290 OF 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.12.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.5290 of 2022 AND
W.M.P.(MD)No.4305 of 2022

P.Baluchamy

... Petitioner

Vs.

1. The District Collector,
Collectorate,
Madurai – 625 020.
2. The Revenue Divisional Officer,
Madurai.
3. The Tahsildar,
Madurai North,
Madurai.
4. The Sub Registrar,
Combined Registrar Office,
Rajakambeeram,
Othakadai – 625 107,
Madurai.
5. The Inspector of Police,
Anna Nagar police station,
K.K.Nagar, Madurai – 625 020.
6. Palaniyandi
7. Rakeshtharan

... Respondents

Prayer: Writ petition filed under Article 226 of the
Constitution of India, to issue a Writ of Certiorarified



Mandamus, calling for records pertaining to the patta issued in patta No.2019/0153/24/000096TR dated 21.06.2019 issued by the third respondent and quash it as illegal and consequently direct the fifth respondent to register the case against respondents 6 and 7 for planned conspiracy and cheating.

For Petitioner : Mr.K.K.Samy
For R-1 to R-4 : Mr.K.Balasubramani,
Special Government Pleader.

For R-5 : Mr.A.Albert James,
Government Advocate.

* * *

ORDER

Heard both sides.

2. The petitioner questions the extract from the town survey land register which is based on the order dated 21.06.2021 passed by the Zonal Deputy Tahsildar, Madurai North. The writ petitioner and the sixth respondent are brothers. There was a family arrangement on 24.02.1995. "B" schedule was allotted to the petitioner and "C" schedule was allotted to the sixth respondent. The petitioner was allotted 2 cents and 145 sq.ft. of land in re-survey No.7/10 in Managiri



Village and the sixth respondent was allotted 5 cents and 143 sq.ft. of land in the said survey number. The document is an unregistered document. Based on the family arrangement, the sixth respondent executed the gift deed dated 02.08.2012 in favour of his son/ seventh respondent herein. The gift deed purports to convey 7 cents of land in favour of his son, the seventh respondent herein. Based on the registered gift deed, mutation was made in the revenue record leading to issuance of patta in favour of the seventh respondent for 7 cents of land in old survey No.101/1B3 which admittedly corresponds to re-survey No.7/10. But the case of the petitioner is that when under the deed of family arrangement, the sixth respondent got only 5 cents and 143 sq.ft. of land. He could not have conveyed 7 cents of land under the gift deed in favour of his son.

3. The stand of the private respondents is that even though under the deed of family arrangement, only lesser extent of land was given, since the sixth respondent was in enjoyment and occupation of natham land which is contiguous to the land allotted under the family arrangement, he was able to convey a greater extent of land. This explanation is quite



plausible. But then, the revenue authorities had to adopt an uniform yardstick. When the petitioner applied for issuance of patta for 2 cents and 145 sq.ft of land in resurvey No.7/10, the Tahsildar, Madurai North informed the petitioner that since the family arrangement on which reliance is placed is an unregistered document, patta cannot be issued and survey cannot be done. A copy of the said communication dated 08.11.2023 sent by the Tahsildar, Madurai North to the Government Pleader, Madurai Bench of Madras High Court has been placed for my perusal. But on the strength of the very same family arrangement, the sixth respondent conveyed the registered gift deed. Based on the same, the revenue authority issued patta for the seventh respondent. There is a popular saying "What's sauce for the goose is sauce for the gander". What was applied to the petitioner was not applied to the seventh respondent. Therefore, the petitioner is permitted to file an appeal before the second respondent. The second respondent will hold an enquiry after issuing notice to the respondents 6 and 7 and all the interested persons if any. If the second respondent can issue patta in favour of the petitioner for 2 cents and 145 sq.ft. of land referred to in the



family arrangement mentioned above, the impugned mutation made in favour of the seventh respondent would not be disturbed. If the second respondent is of the view that patta cannot be given to the petitioner, then the second respondent will have to necessarily set aside the patta issued in favour of the seventh respondent. Of course the second respondent will bear in mind the settled principle of law that a family arrangement does not require registration.

4. The learned counsel appearing for the petitioner states that he will an appeal within a period of two weeks from the date of receipt of a copy of this order. If such an appeal is filed, the same will be disposed of as mentioned above within a period of twelve weeks thereafter. This writ petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

04.12.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes/ No

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- To:**
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G.R.SWAMINATHAN,J.

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