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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.12.2023

CORAM

**THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH**

**W.P.(MD)No.6763 of 2020**
**and**
**W.M.P.(MD).No.6145 of 2020**

Pitchammal ... Petitioner

Vs.

1.The Revisional Authority/
District Revenue Officer,
Collectorate,
Tirunelveli – 627 009.

2.The Sub Collector,
Cheranmahadevi – 627 414,
Tirunelveli District.

3.The Tahsildar,
Radhapuram Taluk,
Radhapuram – 627 111.

4.E.Gopalakrishnan

5.E.Velmurugan ... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records relating to the proceedings in ப.மு.கா2/28409/2018 (UDR 16/18), dated 28.02.2020, on the file of the first respondent herein and to quash the same.


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|---|---|
| For Petitioner | : Ms.P.Jessi Jeeva Priya |
| For R-1 to R-3 | : Mr.A.K.Manikkam<br>Special Government Pleader |
| For R-4 and R-5 | : Mr.S.Vinayak |

**ORDER**

This Writ Petition has been filed challenging the proceedings of the first respondent dated 28.02.2020 wherein the first respondent had directed the deletion of the name of the petitioner from the patta and to replace it with the names of the respondents 4 and 5 with respect to Survey No.499/1D.

2. The case of the petitioner is that the land in Survey No.499/1 admeasuring 8 acres 25 cents was sub-divided as 499/1 and 499/2. The further case of the petitioner is that by virtue of the gift deed dated 04.04.1981 which was registered as Document No.500 of 1981, the property in Survey No.499/2 measuring an extent of 95 cents was gifted to the petitioner. The further case of the petitioner is that the respondents 4 and 5 had purchased the property in Survey No.499/1 measuring an extent of 4 acres 13 cents. While purchasing the same, they were given a right to access the pathway situated in Survey No.499/1D which measures an extent of 13 cents. The respondents 4 and 5


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made a claim for issuance of patta in their names with respect to Survey No. 499/1D. Such claim was made by the respondents 4 and 5 on the ground that a mistake had crept-in during UDR and that the petitioner has been wrongly given patta with respect to Survey No.499/1D.

3. An enquiry was conducted by the first respondent and the first respondent through the impugned proceedings dated 28.02.2020 came to a conclusion that the petitioner does not have any right over Survey No.499/1D, by virtue of gift deed dated 04.04.1981 and accordingly, the revenue records were directed to be mutated in favour of the respondents 4 and 5 by relying upon the sale deed executed in their favour on 15.05.2014.

4. Aggrieved by the same, the present Writ Petition has been filed before this Court.

5. Heard the learned counsel appearing on behalf of the petitioner, the learned Special Government Pleader appearing on behalf of the respondents 1 to 3 and the learned counsel appearing on behalf of the respondents 4 and 5.


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6. The learned counsel for the petitioner submitted that the petitioner had right over Survey No.499/1D by virtue of the gift deed dated 04.04.1981 and that is the reason why the patta was given in the name of the petitioner to an extent of 13 cents. The learned counsel submitted that what was purchased by the petitioner is Survey Nos.499/1D and 499/2A and both the properties put together is to an extent of 95 cents. Out of that, Survey No.499/1D measures an extent of 13 cents. Accordingly, it was contended that there was no reason to cancel the patta given in favour of the petitioner when the right and title of the petitioner is borne out by gift deed dated 04.04.1981.

7. Per contra, the learned counsel for the respondents 4 and 5 submitted that the petitioner was admittedly gifted the property in Survey No.499/2 measuring an extent of 95 cents. In view of the same, by no streach, the petitioner can claim any right for Survey No.499/1D. This was properly appreciated by the first respondent while passing the order dated 28.02.2020. The learned counsel further submitted that the respondents 4 and 5 had purchased the pathway right in Survey No.499/1D by virtue of sale deed dated 15.05.2014 and the same was also considered by the first respondent while passing the impugned order. In view of the same, the order passed by the first respondent does not require interference of this Court.


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8. The learned Special Government Pleader appearing on behalf of the official respondents submitted that the first respondent has taken into consideration the title documents of both the parties and had come to the right conclusion that with respect to Survey No.499/1D, the petitioner does not have any right over the same and therefore the name of the petitioner was directed to be removed and the names of the respondents 4 and 5 were directed to be incorporated in the revenue records.

9. On carefully going through the title documents of both the petitioner and the respondents 4 and 5, there is absolutely no clarity as to who is the absolute owner of Survey No.499/1D. In the gift deed that was executed in favour of the petitioner, there is no reference to Survey No.499/1D and there is only reference to Survey No.499/2 measuring an extent of 95 cents. Coming to the title documents of the respondents 4 and 5, it is only stated that they have a pathway right over Survey No.499/1D. The document no where states that Survey No.499/1D has been sold in favour of the respondents 4 and 5.

10. It is brought to the notice of this Court that there is already a suit filed by the petitioner in O.S.No.26 of 2021 on the file of the Principal District


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Munsif Court, Valliyoor seeking for the relief of declaration and permanent injunction and the said suit is pending. This suit pertains to Survey No.499/1D. The respondents 4 and 5 are the defendants in the suit. Hence, the right and title over Survey No.499/1D can be properly decided by the civil Court based on the evidence that is put forth by both the parties. The final judgment and decree to be passed in this suit will finally determine as to who has the right and title over Survey No.499/1D. In view of the same, it will be fit and proper to leave the petitioner and the respondents 4 and 5 to agitate their dispute before the civil Court.

11. It is made clear that the civil Court will not be influenced by the order passed by the first respondent and the order passed in this Writ Petition and the claim made by both the parties will be dealt with on its own merits and in accordance with law and after proper appreciation of evidence. Ultimately, subject to the result in this suit, both the parties are permitted to approach the revenue authorities seeking for consequential relief. No further orders shall be passed by the revenue authorities until the suit is disposed of by the competent civil Court.


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12. This Writ Petition is disposed of in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

**12.12.2023**

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr

To

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District Revenue Officer,
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**N.ANAND VENKATESH, J.**

Nsr

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