

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.08.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.13657 of 2014

A.Chandrasekaran

... Petitioner

Vs

1.The Revenue Divisional Officer,
Pudukkottai & District.

2.Maheswaran

3.Punniyavathi

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records from the first respondent in his proceedings in Na.Ka.No.A1/7973/2012 dated 29.05.2014 and to quash the same and legally unsustainable and factually unfounded.

For Petitioner : Mr.N.Balakrishnan

For Respondents : Mr.N.Satheesh Kumar
Additional Government Pleader
for R.1

Mr.K.Balasundharam for R.2 & R.3

ORDER

Heard the learned counsel on either side.

2. The petitioner had purchased 1 acre 13 cents of land in Survey Nos. 8632/1 and 8639/1 in Kavinadu West Village, Pudukkottai Taluk, from one Kannan vide sale deed dated 23.01.1984. The said Kannan in turn had purchased the property from one Mariyayee vide sale deed dated 11.08.1982. Patta was not mutated in favour of the petitioner herein or his vendor Kannan. However, the patta remained in the name of Mariyayee. While so, the second respondent herein namely Maheswaran who is none other than the nephew of Mariyayee applied to the Tahsildar for including his name in the revenue record. The matter was taken up for enquiry by the Revenue Divisional Officer, Pudukkottai who vide order dated 29.05.2014 directing the Tahsildar, Pudukkottai to enter the names of all the legal heirs of the original pattadhar. Challenging the said order, the present writ petition came to be filed.

3. After hearing the learned counsel on either side and also the learned Additional Government Pleader, I am satisfied that the property measuring 1 acre 13 cents originally belonged to one Poochiyayee. She passed away

leaving behind six legal heirs, namely, Mariyayee, Veluchamy, Palaniyandi, Rengan, Marimuthu and Sankaran. After the demise of Mariyayee, mutation was made and the names of all the six legal heirs was entered in the revenue record vide proceedings dated 26.08.1980. While so, Mayiyayee who was daughter of Poochiyayee and one of the six legal heirs applied to the Tahsildar, Pudukkottai on 12.07.1982 and sought issuance of patta exclusively in her name. She claimed that her mother had passed away at Srilanka and all her 5 brothers have obtained Srilankan citizenship and are residing there for 40 years and that therefore the property belonged to her exclusively and that her brothers could not have any right or title. The Tahsildar, Pudukkottai accepted the claim of Mariyayee and directed issuance of patta solely in her name. This has been faulted by the Revenue Divisional Officer, Pudukkottai in the impugned order. The approach adopted by the Revenue Divisional Officer, Pudukottai is correct. Admittedly, Poochiyayee owned the property. Following her demise, it will devolve in equal measure on all her legal heirs. It would not Mariyayee's case that Puchiyayee executed any Will bequeathing the entire property in her name. The Tahsildar, Pudukkottai committed serious illegality in conceding the claim of Mariyayee. This has rightly been undone by the Revenue Divisional Officer.

4. I direct the Tahsildar, Pudukkottai to restore the names of all the six legal heirs of Poochiyayee. Since Mariyayee had sold the entire extent of land in favour of one Kannan and the said Kannan in turn sold the property in favour of Chandrasekaran, Chandrasekaran will step into the place of Mariyayee. Of course, the third respondent who is the daughter of Mariyayee claims that she was not aware of the said sale transaction. That is beside the point. The petitioner is relying on a registered sale deed. If the third respondent is aggrieved, it is for her to question the sale transaction in the manner known to law. The revised revenue record shall reflect the names of the writ petitioner and the five siblings of the late Mariyayee. I make it clear that I have only directed appropriate modification in the revenue record. The civil rights of the parties are left open.

5. This writ petition is disposed of accordingly. There shall be no order as to costs.

18.08.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
MGA

To

The Revenue Divisional Officer,
Pudukkottai & District.

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G.R.SWAMINATHAN, J.

MGA

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