



W.P(MD)No.14861 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 10.07.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.14861 of 2014

1.Seeni

2.Jayalakshni

3.Pandiyammal

... Petitioners

Vs.

1.The Tahsildar,
Tirumangalam Taluk,
Taluk Office,
Thirumangalam,
Madurai District.

2.Meenakshiammal

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the regards pertaining to the proceedings in Register No.4421/07-08. Transaction ID 2007/02574 dated 16.08.2013 passed by the 1st Respondent and quash the same as illegal.



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For Petitioners : Mr.K.P.Thiyagarajan

For Respondents : Mr.G.Gandhiraj,
Spl. Government Pleader for R1.
Mr.I.Suthakaran for R2.

ORDER

Heard the learned counsel on either side.

2.The petitioner challenges the impugned mutation of patta in favour of the second respondent herein.

3.The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. His submissions are two fold. (a) The impugned mutation appears to be based on a document executed in the year 2006. A look at the contents of the said document would indicate that the schedule set out in the sale deed has nothing do with the petition mentioned property. (b) The petitioners are the incumbent pattadars. Without notice to them, the second respondent could not be added as joint pattadar. There is a clear



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violation of principles of natural justice. The learned counsel for the petitioner called upon this Court to set aside the impugned order and grant relief as prayed for.

4.The learned counsel for the second respondent submitted that the property originally belonged to Kumarandi, the grandfather of the second respondent. The said Kumarandi had three sons namely, Nallathambi, Oorkavalan and Irulappan. There was partition among three sons. Nallathambi was allotted 39 cents on the northern side. Oorkavalan was allotted 41 cents in the middle. Irulappan was allotted 38 cents on the southern side. He does not dispute that the petitioner's grandmother purchased the share of Oorkavalan and Irulappan. The stand of the second respondent is that her father Nallathambi did not alienate his share. However, during UDR, Nallathmabi's name was erroneously omitted. This omission was set right by the impugned order. Since the second respondent wanted to give quietus to the issue, she has since filed O.S.No.305 of 2020 on the file of Sub Court, Thirumangalam. The plaintiff's side has already been closed. The case is posted for adducing evidence by the defendants. Since the civil Court is seized of the matter,



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the learned counsel called upon this Court to relegate the parties to workout the rights before the Civil Court.

5.I carefully considered the rival contentions and went through the materials on record. It cannot be in dispute that the issue has to be finally settled and adjudicated only by the jurisdictional Civil Court. But then, this Court cannot defer testing the validity of the impugned order whereby mutation was made by adding the second respondent as joint pattadar.

6.Even according to the second respondent, her father/Nallathami's name was omitted during UDR. If that be so, this omission could have been set right only by the competent authority ie., District Revenue Officer, Madurai. The jurisdictional Tahsildar could not have intervened in the matter.

7.In any event, without putting the incumbent pattadars on notice, the mutation could not have been made. I sustain the contention of the learned counsel for the petitioner that there has been violation of



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principles of natural justice. Therefore, on these twin grounds (a) lack of jurisdiction and (b) violation of principles of natural justice, the impugned mutation is set aside and this writ petition is allowed. I make it clear that this order will not come to the aid of the parties in the pending civil suit. The jurisdictional Civil Court will decide the issue independently and on the strength of the evidence adduced before it. No costs.

10.07.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:-

The Tahsildar,
Tirumangalam Taluk,
Taluk Office,
Thirumangalam,
Madurai District.



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G.R.SWAMINATHAN, J.

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