

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.09.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.10275 of 2015
and
W.M.P.(MD)Nos.1 & 2 of 2015

R.Chinna Thambi (Died)
2.Kannammal

3.Periyasamy

4.Rajasekar

5.Kennedy

6.Srinivasan

7.Sridevi

8.Vaithehi
(P2 to P8 substituted vide order dated
17.08.2023 in W.M.P.(MD)No.10275 of 2015)

... Petitioners

Vs.

1.The Revenue Divisional Officer,
Ramanthapuram District.

2.The Tahsildar,
Thiruvadanai Taluk,
Ramanathapuram District.

3.Rethina Thevar (died)

4.Kandhasamy

5.Subramanian

6.Karuppiah

7.Padmanabhan @ Pushbanathan (died)

8.Renganayaki

9.Ramachandran

10.Rajeswar

11.Regunathan

12.Saravanan

13.R.Murugesan

14.Arunthathi

(R8 to R12, R13 & R14 are impleaded
vide order dated 28.07.2023
in W.M.P.(MD)No.2240/2019)

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records and the impugned order passed by the 1st respondent in No. Mu.Mu.Va.Pa.NO. 27 of 2003 dated 01.03.2007 and quash the same and directing the 2nd respondent to issue the patta to the petitioner.

For Petitioner : Mr.H.Velavadhas

For Respondents : Mr.D.Gandhiraj
Special Government Pleader for R1 & R2
: Mr.V.Nagarajan for R4 to R13

ORDER

One Ramayee Ammal and Muthayee Ammal were jointly enjoying the property comprised in Survey No.22/8A measuring an extent of 1 acre 48 cents. Ramaye Ammal had a son by name Kuppa Muthu Ambalam. Kuppa Muthu Ambalam had three sons namely Vellachamy, Jeganathan and Naganathan. Muthayee Ammal had one son by name Velu Ambalam. The respondents 3 to 7 herein are his sons. The respondents 3 & 7 passed away during the pendency of the writ petition. Their legal heirs have also been brought on record.

2. It is not in dispute that 8 cents of land were acquired for road purpose. During UDR, the revenue record reflected the joint names of Kuppa Muthu Ambalam and sons of Velu Ambalam. While so, the legal heirs of Kuppa Muthu Ambalam alienated 1 acre and 7 cents of land in favour of the petitioner vide sale deed dated 16.06.1997. Rethina Thevar who was figuring as 3rd respondent herein filed the petition on 13.10.2003 before the Revenue Divisional Officer, Ramanathapuram for restoring the original position in the revenue record. He alleged that their names were also figuring in the revenue record and that without notice to them, their names have been deleted in Patta No.171. Accepting the case of the third respondent and after recording the testimony of Naganathan who was one of the vendors of the writ petitioner, the

impugned order dated 01.03.2007 came to be passed. As a result of the order dated 01.03.2007, the name of the petitioner which was figuring in the revenue record got deleted and the name of Kuppa Muthu Ambalam and the legal heirs of Velu Ambalam got restored. When the petitioner became aware of the same, he moved the Revenue Divisional Officer, Ramanathapuram. By the impugned memorandum dated 19.05.2015, the Revenue Divisional Officer, Ramanathapuram rejected the petitioner's application on the ground that he has become *functus officio*. Challenging the earlier order dated 01.03.2007, the present writ petition came to be filed.

3. After hearing the learned counsel on either side, I am more than satisfied that the issue will have to be remanded to the file of the Revenue Divisional Officer, Ramanathapuram for fresh consideration as regards Survey No.22/8A alone. This is because, admittedly, vide order dated 18.08.1997, the Zonal Deputy Tahsildar, Tiruvadanai had mutated the revenue record in respect of the said survey number in favour of the petitioner. Copy of the said proceedings has been enclosed in the typed set of papers. It states that the names of the legal heirs of Kuppa Muthu Ambalam alone were shown in the revenue record. Thus, when Rethina Thevar moved the Revenue Divisional Officer, Ramanthapuram, Chinna Thambi's name was very much present in the

revenue record. Therefore, the Revenue Divisional Officer, Ramanathapuram ought to have put Chinna Thambi on notice before accepting the case of Rethina Thevar. Since Naganathan S/o.Kuppa Muthu Ambalam had already sold the property in favour of Chinna Thambi vide registered sale deed dated 16.06.1997, the question of examining Naganathan did not arise at all. It was Chinna Thambi who ought to have been heard. Therefore, on this sole ground of violation of principles of natural justice, the impugned order is interfered with in respect of Survey No.22/8A alone. The matter is remitted to the file of the Revenue Divisional Officer, Ramanathapuram. The Revenue Divisional Officer, Ramanathapuram will issue notice to all the legal heirs of Chinna Thambi as well as the legal heirs belonging to Velu Ambalam branch and pass final order on merits and in accordance with law. I make it clear that I have not gone into the merits of the matter.

4. The Writ Petition is allowed accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

15.09.2023

Index : Yes / No
Internet : Yes/ No
rmi

G.R.SWAMINATHAN, J.

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To

- 1.The Revenue Divisional Officer,
Ramanthapuram District.
- 2.The Tahsildar,
Thiruvadanai Taluk,
Ramanathapuram District.

W.P(MD)No.10275 of 2015

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