



WP (MD) No.1451 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.1451 of 2015

K.Adhikari

... Petitioner

Vs

- 1.The District Collector,
Theni District,
Theni.
- 2.The Revenue Divisional Officer,
Periyakulam,
Theni District.
- 3.The Tahsildar,
Theni Taluk,
Theni District.
- 4.The Village Administrative Officer,
Unchampatti,
Theni District.
- 5.Uma
- 6.Janakiraman



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7.Karthick Pandi

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents 3 and 4 to receive Kist from the petitioner for the property bearing S.No.153/2B measuring 29.5 Ares of Unchampatti Village, Theni Taluk, Theni District.

For petitioner : Mr.M.Saravanan
For R1 to R4 : Mr.M.Sarangan
Additional Government Pleader
For R5 to R7 : Mr.P.Thiyagarajan

ORDER

This writ petition is filed for a Mandamus, to direct the respondents 3 & 4 to receive Kist from the petitioner for the property in S.No.153/2B, to an extent of 29.5 Ares of Unchampatti Village, Theni.

2.The learned counsel appearing for the petitioner submits that the above property belonged to the petitioner's great grand father N.Veerana Thevar. Subsequently, the property was devolved on the petitioner's grandfather one Iyer Thevar. After the death of Iyer Thevar,



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his sons Kottaichamy, Veeranan, Mayandi @ Periyakalai and Pandian were in joint possession of the property. One of the legal heir of Iyer Thevar, namely Veeranan has obtained a patta for the subject property in his favour. Hence, the other legal heirs have submitted an application before the third respondent/the Thasildhar, Theni to include their names in the patta and accordingly, the name of the other legal heirs have been included. Subsequently, Veeranan died and his legal heirs have preferred an appeal before the second respondent and the same is pending. At this juncture, the petitioner requested the respondents to issue receipt for the payment of Kist made by the petitioner for the property bearing S.No.153/2B measuring 29.5 Ares of Unchampatti Village, Theni Taluk, Theni District and the same was not considered. Hence, the petitioner has filed this writ petition in the year 2015.

3.The learned Additional Government Pleader appearing for the respondents submits that the Zonal Deputy Tahsildar has passed



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an order treating one Veeranan as the only legal heir of the Iyer Thevar, based on the report of the Village Administrative officer. It appears that there is a civil dispute between the parties and therefore in view of the pendency of this writ petition, they have not taken any action on the petitioner's representation.

4.The learned counsel for the respondents 5 to 7 states that the land in S.No.153/2B measuring to an extent of 29.5 ares of Unchampatti Village originally belong to their great grand father N.Veerana Thevar. After his death, the property was devolved on Karuppa Thevar and Thavasi Thevar. The said Thavasi Thevar has sold his share and Karuppa Thevar has enjoyed his share till his life time. Therefore, the same was succeeded by his two sons Iyer Thevar and Thavasi Thevar. During the year 1965, the properties of Iyer Thevar was orally allotted to his sons Periyakalai @ Mayandi, Kottaisamy, Veeranan and Pandian and they were in possession and enjoyment of



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their respective shares. As per the oral partition, these properties were sold through various sale deeds. As per the oral partition, the land in S.No.153/2B is now vest with Veeranan and patta was also issued in his name. Based on the patta, Veeranan is paying the kist. He further submits that the application filed by this petitioner before the Revenue Divisional Officer, in Mu.mu.No.3309/2013/A1 was rejected by the Sub Collector by his proceedings dated 18.05.2020, referring the civil suit which is pending between the parties before the District Munsif Court, Theni in O.S.No. 212 of 2011. The learned counsel has stated that one Pounammal has filed a suit before the District Munsif Court, Theni for partition in O.S.No.212 of 2011 and has also filed an application to re-survey the properties by way of an amendment. Considering the valuation of the properties sought to be amended, the District Munsif Court by its order dated, 06.07.2023 has returned the plaint with liberty to the plaintiff, Pounammal to re-present the same before the appropriate Court, which is having pecuniary jurisdiction. It



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is not known whether the plaintiff has presented the same before the pecuniary jurisdiction Court or not.

5.This Court considered the rival submissions made and also perused the materials placed on record.

6.The case of the petitioner is that the property in S.No. 153/2B, to an extent of 29.5 Ares of Unchampatti Village, Theni belonged to one Iyer Thevar and the petitioner is also the legal heir of Iyer Thevar. However, one of the legal heirs of Iyer Thevar, namely Veeranan has obtained a patta for the subject property in his favour. According to the respondents 5 to 7 there was a oral partition, based on which, patta has been transferred in the name of Veeranan and therefore, tax has been collected from the said Veeranan. The learned Additional Government Pleader submits that the Zonal Deputy Tahsildar has passed an order for collecting the tax from the Veeranan,



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based on the report of the Village Administrative Officer that Veeranan is the only legal heir of Iyer Thevar.

7.Considering the issue involved in this writ petition, this Court directs the Tahsildar concerned to conduct an enquiry afresh and to revise the tax receipts. The parties are at liberty to work out their remedy before the appropriate civil Court. Accordingly, this writ petition is disposed of. No costs.

09.11.2023

NCC :Yes/No
Index :Yes/No
Internet:Yes
vrn



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B.PUGALENDHI, J.

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Order made in
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