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W.P.(MD)NO.18216 OF 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.08.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.18216 of 2015 AND

M.P.(MD)Nos.1 & 2 of 2015

Poongothai

... Petitioner

Vs.

1. The District Collector,
Sivagangai District,
Sivagangai.
2. The District Revenue Officer,
Sivagangai District,
Sivagangai.
3. The Revenue Divisional Officer,
Devakottai,
Sivagangai District.
4. Vallikannu
5. Elangovan

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for records relating to the impugned order made by the 2nd respondent in his proceedings in MuMu B1/23768/2015 dated 03.08.2015 and the order made by the third respondent in MuMuA1-5673-2012 dated 24.04.2013 and quash the same.



For Petitioner : Ms.A.Afritha Fathima,
for M/s.Ajmal Associates.

For R1- to R-3 : Mr.SR.A.Ramachandran,
Additional Government Pleader.

For R-4 & R-5 : No appearance.

* * *

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Additional Government Pleader appearing for respondents 1 to 3.

2. Though the contesting respondents have been served and they have engaged counsel, there is no representation on their behalf.

3. The case of the petitioner is that even though the patta stood in her name in respect of the petition-mentioned lands, it was mutated in favour of respondents 4 and 5 behind her back vide order dated 24.04.2013 passed by the Revenue Divisional Officer, Devakottai. The petitioner thereupon filed



revision before the District Revenue Officer, Sivagangai. In the meantime, the contesting respondents filed O.S.No.144 of 2014 on the file of the District Munsif, Thiruppathur (now transferred and re-numbered as O.S.No. 135 of 2019 on the file of the District Munsif Court, Singampunari). The learned counsel appearing for the petitioner states that the suit was dismissed for default. It appears that the petition for restoration is pending. The petitioner's counsel points out that the second respondent chose to dismiss the petitioner's revision by citing the pendency of the civil suit. She pressed for setting aside the impugned order and restoration of the status quo.

4. The learned Additional Government Pleader appearing for the respondents submitted that the order passed by the District Revenue Officer, Sivagangai is well reasoned and it does not warrant any interference.

5. I carefully considered the rival contentions and went through the materials on record.



6. It is true that the revenue record reflected the name of the petitioner for quite some time and that is why, the contesting respondents submitted a petition before the Revenue Divisional Officer, Devakottai for deleting the name of the petitioner and entering their names. Though the petitioner's counsel would claim that the petitioner was not put on notice, the order of the Revenue Divisional Officer states that the petitioner appeared for enquiry but did not submit any document. Even if I assume for a moment that the Revenue Divisional Officer, Devakottai violated the principles of natural justice, the fact remains that before the District Revenue Officer, Sivagangai, a full-fledged enquiry was conducted. The petitioner's claim is that she had purchased the petition-mentioned lands through sale deed dated 05.09.1990. The District Revenue Officer has noted that the document was not registered and that on the strength of an unregistered sale deed, mutation of revenue record could not have taken place. It is further observed in the impugned order that the relevant patta proceedings are also not available.



7. I wanted to know from the petitioner's counsel, if the petitioner had purchased the property through a registered sale deed. The answer is in the negative. When the petitioner had not purchased the property on the strength of a registered sale deed, she cannot insist that her name could find place in the revenue record. If on the strength of possession, the petitioner is making her claim, then she has to necessarily establish her case before the jurisdictional civil Court. Granting such liberty to the petitioner, I sustain the order impugned in the writ petition.

8. I make it clear that it is always to the petitioner herein to prove her case before the jurisdictional civil Court. This writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

17.08.2023

NCS : Yes / No
Index : Yes / No
Internet : Yes / No
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To:

1. The District Collector,
Sivagangai District,
Sivagangai.
2. The District Revenue Officer,
Sivagangai District,
Sivagangai.
3. The Revenue Divisional Officer,
Devakottai,
Sivagangai District.



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G.R.SWAMINATHAN,J.

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