BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.08.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.18998 of 2015 AND
M.P.(MD)Nos.1 to 3 of 2015

1. R.Senthilvel (died)

2. S.Sivappi Ammal

3. S.Selvakumaran

4. S.Saravanan

5. S.Ramanathan
   (Petitioners 2 to 5 are *suo motu* impleaded
   vide order dated 11.08.2023) ... Petitioners

Vs.

1. The District Revenue Officer,
   Sivagangai District,
   Sivagangai.

2. The Revenue Divisional Officer,
   Devakkottai,
   Sivagangai District.

3. The Tahsildar,
   Thirupattur Taluk,
   Sivagangai District.

4. Karuppiah

5. Vijayalakshmi ... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings in Mu.Mu.A1-1165-2015 dated 28.05.2015 and consequential impugned order in Mu.Mu.A1-5265-2015 dated 09.09.2015 passed by the second respondent and quash the same and consequently direct the second respondent to conduct fresh enquiry relating to the complaint dated 26.02.2015 of respondents 4 and 5 after issuing notice to the legal heirs of respondents 4 and 5 by following due process of law.

For Petitioner	: Mr.A.P.Muthu Pandian
For R-1 to R-3	: Mr.N.Satheesh Kumar, Additional Government Pleader.
For R-4 & R-5	: Mr.N.Sekar

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O R D E R

Heard the learned counsel on either side.

2. The subject matter pertains to survey No.223/17 in Kirunkakottai Village. It is a patta land. Thiru.Senthilvel was the original petitioner herein. A copy of the patta has also been enclosed in the typed set of papers. Contending that a

wrong entry has been made and that their names should be entered, the private respondents herein submitted petitions before the Revenue Divisional Officer, Devakottai on 26.02.2015. The Revenue Divisional Officer, Devakottai after hearing the parties gave direction to the Tahsildar, Thirupathur to conduct spot inspection and based on the possession of the claimants, the Tahsildar was directed to issue patta to those who are in possession. This is put to challenge in this writ petition.

3. During the pendency of the writ petition, the petitioner passed away and his legal heirs have been brought on record.

4. When the question that arose as to whose names should appear in the revenue record, the authority concerned must apply the principles set out in the RSO/Patta Passbook Act. If the land in question is a patta land, the authority must find out as to how the claim is being traced. In this case, the case of the private respondents is that the property belonged to their forefathers. They alleged that the original petitioner

had managed to obtain exclusive patta. The stand of the private respondents might be justified. But then, the said claim will have to be resolved only before the jurisdictional civil Court in a properly laid partition suit. The Revenue Divisional Officer should not have issued direction for Tahsildar to issue patta based on who is in possession. Therefore the orders impugned in the writ petition is set aside. The writ petition is allowed.

5.I make it clear that the outcome of this writ petition will not come in the way of the private respondents from establishing their rights before the jurisdictional civil Court. It is fairly stated by the petitioners through their counsel that the 5th respondent Vijayalakshmi is in occupation of 5 cents of land and that she has put up a house therein. This fair statement made by the petitioners counsel is placed on record. No costs . Consequently, connected miscellaneous petitions are closed.

11.08.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
PMU

NOTE: Registry to make a copy of this order to
the Tahsildar, Singampunari Taluk, Sivagangai District.

To:

1. The District Revenue Officer,
   Sivagangai District,
   Sivagangai.

2. The Revenue Divisional Officer,
   Devakkottai,
   Sivagangai District.

3. The Tahsildar,
   Thirupattur Taluk,
   Sivagangai District.

G.R.SWAMINATHAN,J.

PMU

W.P.(MD)No.18998 of 2015

11.08.2023