



**W.P(MD)No.19818 of 2015**

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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**DATED : 26.07.2023**

**CORAM**

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

**W.P(MD)No.19818 of 2015  
and  
W.M.P.(MD)Nos.1 & 2 of 2015**

**S.Vegappan**

**... Petitioner**

**Vs.**

**1.The Commissioner of Madurai Corporation  
Madurai Corporation,  
Madurai.**

**2.The Assistant Commissioner,  
Region No.4,  
Madurai Corporation,  
Madurai.**

**3.S.Chandran**

**... Respondents**

**Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned order of the 2nd respondent in Na.Ka.No.4985/2013/Z4/a2 dated 08.10.2015 quash the same.**

**For Petitioners : Mr.S.Srinivasa Raghavan**

**For Respondents : Mr.K.K.Kannan for R1 & R2  
: Mr.A.Jeyaram for R3**



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## **ORDER**

Heard the learned counsel on either side.

2. The petition mentioned property belonged to one Kannathal Achi. She gave birth to the writ petitioner and the third respondent. Singaram was her husband. Singaram had all along been in Malaysia. Kannathal Achi passed away on 12.08.2007. Chandran/R3 herein applied to the Madurai Corporation to effect mutation in the property tax assessment register. The second respondent put the petitioner on notice. The petitioner gave his objection through as many as three letters dated 18.07.2013, 09.04.2014 and 23.07.2015. The third respondent placed reliance on Document No.5617/13 said to have been executed by Singaram (father). The stand of the petitioner is that the mother namely Kannathal Achi did not execute any Will or settlement in favour of her husband (father of the petitioner and R3) and that following her demise, the property can devolve in equal shares on all the three legal heirs namely Singaram, Yegappan and Chandran. In fact, the stand of the petitioner is that Kannathal Achi



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had executed a Will in his favour bequeathing the petition mentioned property exclusively in his favour. The partition suit came to be filed since there was another property belonging to Kannathal Achi. Of-course, the petitioner must establish his Will to claim exclusive right over the petition mentioned property. But by no stretch of imagination, mutation could have been made in favour of R3 alone by the second respondent. In the impugned communication, the second respondent had stated that since the petitioner failed to obtain interim order in his favour in the partition suit instituted by him, the second respondent was go ahead for effecting mutation. Such an approach is illogical. If the petitioner had obtained restraint order before the jurisdictional court, the corporation authority was of-course bound by the same. But that does not mean that since the petitioner failed to obtain interim order, the authority can mechanically make the mutation. The authority was obliged to peruse the materials on record and based on his satisfaction as regards devolution of right, he could have made mutation. The impugned communication does not indicate that Kannathal Achi had settled the property in favour of the third respondent. Singaram husband of Kannathal Achi had only 1/3<sup>rd</sup>



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share in the property if ones assumes that Kannathal Achi died intestate. In any event, the entire property could not have been settled by Singaram in favour of the third respondent.

3. From the available materials, one can safely come to the conclusion that the property could have been mutated in favour of the three legal heirs, namely, Yegappan, Chandran and Singaram. The impugned action taken by the second respondent is set aside. The second respondent is directed to enter the names of all the three legal heirs namely Singaram, Yegappan and Chandran in respect of the petition mentioned property. The rights of the parties will abide by the outcome of the civil suit instituted by the petitioner herein. The impugned order is set aside. The writ petition is allowed on these terms. No costs. Consequently, connected miscellaneous petitions are closed.

**26.07.2023**

NCC : Yes/No  
Index : Yes / No  
Internet : Yes/ No  
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**G.R.SWAMINATHAN, J.**

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