BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.08.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.23375 of 2015
and
M.P(MD)No.1 of 2015

P.Suyambu Linga Durai ... Petitioner

Vs

1.The Revenue Divisional Officer,
Cheranmahadevi, Tirunelveli District.

2.The Tahsildar,
Radhapuram Taluk,
Tirunelveli District.

3.S.Esakkiammal
4.Vishnu
5.P.Justin Jeyapaul ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned in Na.Ka.No.A3/23005/2015 dated 04.12.2015 issued by the second respondent and quash the same and consequently direct the respondents 1 and 2 to await for decision of civil court in O.S.No.194/08 and change the revenue records on the basis of decree as per "Rule 4" of Tamil Nadu Patta Pass Book Rules 1987.

For Petitioner : Mr.H.Arumugam

For Respondents : Mr.S.RA.Ramachandran
Special Government Pleader
for R.1 & R.2

Mrs.Jessi Jeeva Priya
for Mr.G.Aravindhan for R.3

No Appearance for R.4 & R.5

ORDER

Heard both sides.

2. The property in question originally belonged to Anthony Muthu Nadar. He passed away leaving behind his wife (Devayi Nadathi), two sons (Devasahayam and Yesu Vadiyan) and a daughter (Yesu Vadiyal) as a surviving legal heirs. One son, by name, Yesu Vadiyan died without leaving behind any issues. His share in the property devolved on the other legal heirs. It is stated by the petitioner that the mother settled 1/3 of her share in the property in favour of her daugther / Yesu Vadiyal. I need not go into further facts. Suffice it to say that the writ petitioner claims through daughter Yesuvadiyal Branch, whereas one of the contesting private respondents, namely, Essakiammal claims through the son Devasahayam Branch. It is not in dispute that the names of all the legal heirs of Anthony Muthu Nadar were reflected in the revenue record

before UDR. It appears that during UDR, the name of Devasahayam alone was entered in respect of the subject land.

3. The property purchased by the third respondent was sometime in the year 2000. It was purchased by the writ petitioner on 22.10.2007. The parties were locked in litigation both before the revenue authorities as well as the jurisdictional civil Court. I need not traverse the trajectory of the orders passed by the various revenue authorities. Suffice it to say that on 21.08.2012, the Tahsildar, Radhapuram passed an order stating that the petitioner as well as the third respondent will be joint pattadhars. This order does not appears to have been challenged before any higher authority. While so, the successor in office, namely, the fifth respondent herein passed the impugned order dated 04.12.2015 deleting the name of the petitioner and directing that the third respondent alone will be the pattadhar. The learned AGP informs the Court that as on date, the revenue record reflects the joint names of the writ petitioner as well as the third respondent.

4. Of course, the fifth respondent has made it clear that the rights of the parties will abide by the outcome of O.S.No.194 of 2008 on the file of the District Munsif Court, Valliyur.

5.The only question that calls for consideration is whether the Tahsildar, Radhapuram could have reviewed his own earlier order dated 21.08.2012. It is well settled that unless the statute specifically confers power of review, the revenue authority will not have jurisdiction to revisit his own order. The impugned order is clearly without jurisdiction. On this technical ground, I set aside the impugned order dated 04.12.2015. I make it clear that I have not gone into the merits of the matter. The position that obtained prior to the passing of the impugned order will be restored. In other words, the petitioner and the third respondent will be recognized as joint pattadhars. The rights of the parties will abide by the outcome of the civil suit.

6.This writ petition is allowed accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

14.08.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
MGA

To

1. The Revenue Divisional Officer,
   Cheranmahadevi,
   Tirunelveli District.

2. The Tahsildar,
   Radhapuram Taluk,
   Tirunelveli District.

G.R.SWAMINATHAN, J.

MGA

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