



W.P.(MD)No.5660 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.09.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.5660 of 2015

and

M.P(MD)No.1 of 2015

and

W.M.P(MD)Nos. 831 and 1007 of 2017

Aatheswaran (Died)

1.Manjula Devi

2.Karthieeswaran

3.Maheswari

4.Palaniyammal

*(P.1 to P.4 were suo motu impleaded
vide order of this Court dated 23.08.2023)*

... Petitioners

Vs.

1.The District Revenue Officer,
District Collector Office, Madurai.

2.The Tahsildar,
Vadipatty Taluk Office,
Vadipatty,
Madurai District.

3. Aathimoolam

... Respondents



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Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent proceedings in Ni.Mu.No.4284/2015 G5 dated 20.03.2015 and quash the same as illegal and directing the Second respondent to issue patta in favour of the petitioner and his family members for the 3.25 acres in Thethur S.F.No.388 at Vadipatty Taluk .

For Petitioner : Mr. S. Muthukrishnan

For Respondents : Mr. D.Gandhiraj
Special Government Pleader
for R.1 and R.2

Mr. P. Mahendran for R.3

ORDER

Heard the learned counsel on either side.

2.The original petitioner Aatheswaran passed away during the pendency of the writ proceedings. His legal heirs have come on record.

3.The case of the original writ petitioner is as follows:

Aatheswaran's grandfather Dandiyappan Servai owned 3 acres and 25 cents in S.F.No.388 in Thethur Revenue Village, Vadipatti Taluk. His father Vellaichamy Servai was the only son of Dandiyappan Servai. Partition took place among the family members of Vellaichamy Servai in



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the year 1982. Though the revenue record should reflect only their names, at the instance of the third respondent, the District Revenue Officer, Madurai, by the impugned proceedings dated 20.03.2015, erroneously included the name of the third respondent in the revenue record as a joint pattadhar. Challenging the same, the present writ petition has been filed.

4.The learned counsel appearing for the petitioners reiterated all the contentions set out in the affidavit filed in support of the writ petition. He submitted that the land in question was an ancestral property of Vellaichamy Servai and that all along the revenue record reflected the names of their family members. Originally, Dandiyappan Servai's name was there. Thereafter, Vellaichamy Servai's name was there. Following the transactions among the family members, the name of Aatheswaran alone was there. According to the learned counsel appearing for the petitioner, the District Revenue Officer committed a grave error in accepting the claim of Aathimoolam/the third respondent herein. Aathimoolam's mother Rakkammal had purchased 81 cents of lands. But then, even assuming it to be true, it was from a third party who did not have title. Therefore, even the inclusion of Rakammal's name in the revenue record prior to UDR was a mistake. There is also nothing on



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record to show that before including the name in the revenue record, the incumbent pattadhar, namely, Vellaichamy Servai was put on notice. Therefore, he called upon this Court to set aside the impugned order and grant relief as prayed for.

5.The official respondents have filed counter affidavit. The third respondent also filed counter affidavit. The learned Special Government Pleader and the learned counsel appearing for the third respondent reiterated the stand taken therein and called upon this Court to sustain the impugned order. The learned counsel appearing for the respondents also filed additional typed set of papers. They want this Court to dismiss the writ petition.

6.I carefully considered the rival contentions and went through the materials on record. At the outset, I must observe that the revenue authorities cannot go into the question of title. These are matters that are better left to the jurisdictional civil Court. The only question that calls for consideration is whether the impugned proceedings can be sustained. The categorical stand of the learned counsel appearing for the petitioner is that the entire extent of 3 acres and 25 cents in old S.F.No.388 of



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Thethur Village, Vadipatti Taluk (formally Nilakkotti Taluk) was the ancestral property of Vellaichamy Thevar. This contention *prima facie* does not appear to be correct. My attention is drawn to Document No. 773/1975 dated 09.06.1975 and Document No.1308/1975 dated 23.10.1975. Let me take up Document No.773/1975. One Ramasamy Servai had executed the said sale deed in favour of Vellaichamy Servai conveying 2 items of property. The second item pertains to Survey No. 388. 17 cents of land in Survey No.388 was sold by Ramasamy Servai in favour of the Vellaichamy Servai. The learned counsel appearing for the petitioner would contend that the Survey Number was erroneously included. I am not swayed by the said submission. The schedule of property set out in Document No.773/1975 is as follows:

“தெத்தூர் கிராமம் சர்வே எண்.388 ஏ3 செ25 கீழ்ப்புறம்
செ17க்கு மார் வரதராசன் புஞ்சைக்கும் மேற்கு ஈஸ்வரன்
புஞ்சைக்கும் வடக்கு ஆதிமூலம் புஞ்சைக்கும் கிழக்கு
தங்கள் பாக புஞ்சைக்கும் தெற்கு இதற்குள் செ17
(பதினேழும்)”

The four boundaries for 17 cents of land in Survey No.388 (extent of 3 acres and 25 cents) is as follows:



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“To the west of Varatharajan Punjai, to the North of Eswaran Punjai to the east of Athimoolam Punjai and to the south of the share of the purchaser.”

This single description is sufficient to negative the stand of the petitioner that Vellaiyappan Servai owned the entire 3 acres and 25 cents in S.F.No. 388. Before the District Revenue Officer, these documents were produced and the impugned order contains elaborate reasoning.

7.The learned Special Government Pleader produced an extract of the earlier record. It is seen therefrom that even before UDR, the name of Rakkammal i.e., the mother of the third respondent was included in the revenue record. However, during UDR, her name was deleted and patta was confined to the sons of Vellaichamy Servai. There is nothing on record to show that Rakkammal was put up on notice before effecting changes during UDR. In such circumstances, the District Revenue Officer should simply restore the earlier position. The other issues should be left to the decision of the civil Court. To this extent, the order impugned in this writ petition deserves interference. Admittedly, prior to UDR the names of Dandiyappan Servai, Vellaichamy Servai and



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Rakkammal were present. The said position shall be restored. It is for the parties to work out their rights before the jurisdictional civil Court.

8.This writ petition is partly allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

07.09.2023

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

To

1.The District Revenue Officer,
District Collector Office,
Madurai.

2.The Tahsildar,
Vadipatty Taluk Office,
Vadipatty,
Madurai District.



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