



W.P(MD)No.5859 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.5859 of 2015

1.G.Vaidurium (Died)

2.Arunvaanan Navin

3.Dhivya

... Petitioners

(P2 and P3 are substituted vide order dated 23.11.2022 in W.M.P.(MD)No.20662 of 2022 in W.P.(MD)No.5859 of 2015)

Vs.

1.The Revenue Divisional Officer,
Usilampatti,
Thirumangalam Taluk,
Thirumangalam,
Madurai District.

2.The Tahsildar,
Thirumangalam Taluk,
Thirumangalam,
Madurai District.

3.Devadhasan (Died)

4.Soundararagavan (Died)

5.Jeevanesan (Died)



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6.D.Muniyammal

7.D.Rathimanickam

8.D.Arasi

9.S.Amudha

10.S.Thiyaneshwaran

11.S.Gowsalya

12.Rajeshwaran

13.J.Chaandhini

14.J.Manickaraj

... Respondents

(R6 to to R14 are substituted vide order dated 19.07.2023 in W.M.P.(MD)No.438 of 2023 in W.P.(MD)No.5859 of 2015)

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari Mandamus, calling for the records in connection with the Impugned Order dated 28.11.2014 in O.Mu.No.8046/2013/A2 passed by the 1st Respondent and quash the same consequently direct the respondents 1 & 2 the name of the Petitioner's father in the revenue record till the outcome of the suit in O.S.No.122/2012 on the file of the Camp Sub Court, Thirumangalam.

For Petitioners : Mr.K.P.Sankarakumarakuruparan

For Respondents : Mr.N.GA.Nataraj,

Government Advocate for R1 & R2.
No appearance for R6 to R14.



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ORDER

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Heard the learned counsel for the writ petitioner and the learned Government Advocate for the official respondents. The private respondents have been served but they have not chosen to enter appearance.

2.The petition mentioned property stood in the name of one Malarkkan Nadar. The said Malarkkan Nadar had five children. One of them was Vaidurium. The grievance of Vaidurium was that mutation in the revenue record was made behind her back. Mutation was made in favour of Soundaragavan (fourth respondent herein). Contending that fraud had been perpetrated, Vaidurium filed O.S.No.122 of 2012 on the file II Additional Sub Court, Madurai seeking the relief of partition. The said suit is still pending. In the meanwhile, she also questioned the mutation. The revenue authority took the stand that since the Civil Court is seized of the matter, they will not act on the petitioner's request. Communication to this effect was issued. Challenging the same, the present writ petition came to be filed.



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3.It is true that when the jurisdictional Civil Court is seized of the matter, the revenue authorities are not supposed to interfere. But this principle will apply only if the status quo is sought to be altered. In this case, when the revenue record standing in the name of Malarkkan Nadar and Soundaragavan wanted mutation to be made in his name, the revenue authority ought to have put all the other legal heirs on notice. Vaidurium was one of the daughters of Malarkkan Nadar. She ought to have been notified before effecting mutation in favour of Soundaragavan. If she had received such a notice, she would have definitely informed the authorities that the document relied on by Soundaragavan cannot bind her. Since the mutation was done behind her back, it is set aside. The respondents 1 and 2 are directed to restore the name of Malarkkan Nadar in the revenue record in respect of the petition mentioned property. It is seen both Vaidurium as well as Soundaragavan are no more. Their legal heirs have come on record. The rights of the parties will abide by the outcome of the civil suit.



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4.This writ petition is allowed accordingly. No costs.

26.07.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:-

1.The Revenue Divisional Officer,
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Thirumangalam Taluk,
Thirumangalam,
Madurai District.

2.The Tahsildar,
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