



W.P.(MD)No.7054 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.09.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.7054 of 2015

and

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

S.Pathalam

... Petitioner

Vs.

1.The Appellate Authority cum Sub-Collector,
Cheranmahadevi,
Tirunelveli District.

2.S.Santhosam

3.Mariamichael Ammal

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records of the first respondent in Ni.Mu.7014-2012 (A1)dated 23.03.15 signed on 31.03.15 and quash the same.

For Petitioner : Mr. H.Arumugam

For Respondents : Mr.S.RA.Ramachandran
Additional Government Pleader for R.1

Mr.R.Anbarasu for R.2



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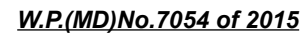


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ORDER

Heard the learned counsel appearing for the writ petitioner, the learned Additional Government Pleader appearing for the first respondent and the learned counsel appearing for the second respondent. Though notice was issued through Court to the third respondent, it could not be served and the notice has been returned with the endorsement that the third respondent is not residing at the address mentioned.

2. The petitioner purchased 2.02.5 Hectares from the third respondent vide registered sale deed dated 07.06.2010. It is not in dispute that on the date of purchase, the revenue record reflected the name of the third respondent and her mother Annammal. The petitioner thereafter applied to the jurisdictional Tahsildar and got his name entered in the patta. Challenging the same, the second respondent moved the Sub Collector, Cheranmahadevi. The petitioner after hearing the petitioner as well as the third respondent herein, the impugned order dated 23.03.2015 was passed. Challenging the same, the present writ petition came to be filed.



4. The learned counsel appearing for the second respondent as well as the learned Additional Government Pleader appearing for the first respondent submitted that the impugned order is well reasoned and that it does not call for interference. They pressed for dismissal of the writ petition.

5. The third respondent is the writ petitioner's vendor and that therefore it is not necessary to order paper notification.

6. I carefully considered the rival contentions and went through the materials on record.

7. It is obvious that the petition mentioned property originally stood in the name of Savarimuthu. The said Savarimuthu had two sons,



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namely, Yesuvadian and Sebastian. The third respondent is the daughter of Yesuvadian. Annamal was his wife. The extract of A-register has been produced for my perusal. It clearly states that Survey No.195/1B corresponding to the petition mentioned number reflected the names of both Yesuvadian as well as Sebastian. Only on 29.04.2004, their names have been rounded off and substituted by the name of Mariamichael Ammal and Annammal, the daughter and wife of Yesuvadian. There is nothing on record to show before effecting mutation in favour of Mariamichael Ammal and Annammal, notice was issued to Sebastian or the second respondent. Admittedly the second respondent is the son of Sebastian and he had siblings. It is for this reason that the first respondent chose to interfere in the matter.

8. The decision of the Hon'ble Division Bench relied by the learned counsel appearing for the petitioner may not have any application to the facts on hand. In that case, the claimant had remained quiet for full 20 years. The Tahsildar had passed the order on 22.02.1988. The claim was raised in the year 2008. In such circumstances, the Hon'ble Division Bench had held that since title dispute is involved, the claimant will have to go to the civil Court and that the revenue authorities cannot resolve the issue. But in the case on hand, the facts appear to be fairly



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simple and free of any complication. The tracing of title would indicate that the property stood in the name of Savarimuthu and that he had two sons Yesuvadian and Sebastian. The revenue record reflected the names of both the sons. While so in April 2004, the name of one son had been deleted and the legal heirs of Yesuvadian alone entered. This had been done without notice to the parties concerned. It is well settled that if any order is passed in violation of principles of natural justice it can be treated as nullity under certain circumstances. The case on hand would definitely fall under such category. Therefore, the approach adopted by the first respondent cannot be faulted.

9. At the same time, the order impugned in this writ petition will have to be interfered with to the limited extent. It is obvious that Mariamichael Ammal and her mother Annammal had executed a registered sale deed in favour of the writ petitioner. Therefore, the question of restoring their names in the revenue record will not arise at all. The first respondent erred in giving a direction that the second respondent should be entered as a joint pattadhar along with Mariamichael Ammal and Annammal. That is clearly unfair. The first respondent ought to have taken into account the sale deed dated 07.06.2010 executed in favour of the writ petitioner. I therefore modify



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the impugned order and it is directed that the name of the second respondent shall be entered as joint pattadhar along with the writ petitioner. The impugned order is modified accordingly.

10. This writ petition is partly allowed. Consequently, connected miscellaneous petition is closed.

01.09.2023

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

To

The Appellate Authority cum Sub-Collector,
Cheranmahadevi,
Tirunelveli District.



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G.R.SWAMINATHAN,J.

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