



WP(MD)No.22060 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP (MD) No.22060 of 2023

and

WMP (MD) Nos.18380 and 18382 of 2023

S.Pasumpon Selvakumar

... Petitioner

Vs

- 1.The District Revenue Officer,
Tenkasi,
Tenkasi District.
- 2.The Revenue Divisional Officer,
Sankarankvoil,
Tenkasi District.
- 3.The Thasildar,
Sivagiri Taluk,
Tenkasi District.
- 4.Rajasekar

5.Premkumar

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for a writ of Certiorari calling for the records of the impugned order passed by the 1st respondent in Ni.Mu.H2-COLR-6046-2022 (Si.Mu.22-2022) dated 16.06.2023 confirming the order passed by the 2nd respondent in Ni.Mu.A2/4212/2022 dated 08.08.2022, quash the same as illegal.



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For petitioner : Mr.R.J.Karthick
For Respondent : Mr.G.V.Vairam Santhosh
Nos.1 to 3 Additional Government Pleader
For Respondent : Mr.H.Lakshmi Shankar
No.4 and 5

ORDER

The case of the petitioner is that the land in S.No.431/1B and 432/2B originally belonged to the petitioner's grand father Maruthaiah Thevar and he passed away on 04.11.1996 leaving behind his legal heirs Samy Ayya, Subramanian, Senthur Pandian, Shanmugathai, Sundarathal and Veluthai. The petitioner is the son of said subramanian. The 4th and 5th respondents are said to have purchased the land from one of the legal heirs by name Samy Ayya. Therefore, this petitioner's son has raised an issue before the Revenue Divisional Officer to cancel the patta, which was given in favour of the 4th and 5th respondents. The Revenue Divisional Officer has admitted the case of the petitioner, however, he directed the parties to workout their remedy before the civil Court.



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2.The learned Counsel for the petitioner submits that the subject land devolved upon six legal heirs of the Maruthaiah Thevar. However, one of the legal heirs by creating documents, has obtained an order for conducting quarry operation and if any quarrying is conducted then it would affect the rights of the petitioner.

3.The learned Counsel appearing for the 4th and 5th respondents submits that the property in S.Nos.413/1B and 432/2B originally belongs to one Podusu Thevar and his sons. The petitioner's father with 8 others from other branches of Ayya Thevar sold to an extent of 42 cents in S.No.111/A/2 to these respondents, their brothers and father. In that document other two brothers of the petitioner's father namely Samy Ayya and Senthur Pandiyan or his heirs were not executants. This can be said in respect of other branches also. But the other family members have accepted the same. The petitioner's father was not a party in an other sale deed dated 08.02.2006, but another son of Maruthaiya Thevar



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viz., Samy Ayya Thevar is an executant along with other descendants who fall under the three other branches. The petitioner's father has consented to this sale. Therefore, the petitioner is also estopped. The petitioner cannot selectively claim share in some properties and oppose alienation of other properties.

4.This Court has considered the rival submissions made on either side.

5.The petitioner with a grievance that he is having right in the subject property has filed this writ petition against the change of patta stating that documents have been created by the respondents 4 and 5 through one of the legal heirs. The respondents 4 and 5 claim that the petitioner's father himself has given consent deed accepting the sale deed in their favour and it is not only purchased from one of the legal heirs, but it is purchased from all the other legal heirs also.



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6.Considering the rival submissions made, this Court disposes of this writ petition with a direction to the 1st respondent/ the District Collector to conduct an enquiry with regard to the allegations made on either side and take a decision within a period of six weeks from the date of receipt of a copy of this order. The petitioner and the 4th and 5th respondents shall co-operate for the enquiry to be conducted by the District Collector and till a decision is taken by the District Collector, the 4th and 5th respondents are not expected to conduct any quarry operations. No costs. Consequently connected miscellaneous petitions are closed.

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

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