

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :27.03.2023

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.(MD)No.8084 of 2016
and W.M.P(MD).No.6603 of 2016

1.Balasubramanian
2.Muthueswaran

... Petitioners

Vs.

1.The District Revenue Officer,
Ramanathapuram District, Ramanathapuram.

2.The Revenue Divisional Officer,
Ramanathapuram District.

3.S.K.Samy

4.Mohammed Muthalif

5.Kansul Fahitha

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records relating to the proceedings of the impugned order in Pa.Mu.(P6)/32046/2012 dated 21.03.2016 on the file of the first respondent and quash the same.

For Petitioner :Mr.G.Prabhu Rajadurai
For Respondents :Mr.M.Sarangan
Additional Government Pleader
for R1 and R2
No-appearance for R3 to R5

ORDER

The petitioners assail an order of the District Revenue Officer dated 21.03.2016 insofar as a joint patta was granted to the fourth respondent in relation to Survey No.118/3E.

2. The petitioners claim title to a property under a sale deed dated 07.11.1967, which was executed by one Ramasamy Thevar (for himself and on behalf of his minor son, Ganesan) and his son, Muniyasamy Thevar.

3. Learned counsel appearing for the petitioners submits that the property bearing Survey No.118/3 originally stood in the name of Duraisamy Thevar, Karupaiah Thevar and Durairaj Thevar. The total extent thereof was 6.66 acres. As between the three original owners, the property was partitioned. The shares of Karupaiah Thevar and Duraisamy Thevar

were sold to one Amirthavalli and her husband. As regards the share of Ramasamy Thevar, the property was sold to the mother of the fifth respondent, namely, S.M.Kathjia Ammal, under the sale deed dated 07.11.1967. By referring to the Schedule of the said property, learned counsel points out that 3.33 acres in Survey No.118/3 were conveyed in favour of the mother of the fifth respondent. The petitioners claim title from the fifth respondent, who is the daughter of S.M.Kathjia Ammal.

4. Learned counsel submits that pattas were also issued in favour of the fifth respondent and thereafter in favour of the first petitioner. He invited my attention to the pattas at page Nos.20 to 23 of the typed set of papers. He also submits that patta was also issued for land bearing Survey No.118/3E. In these facts and circumstances, learned counsel submits that the order of the District Revenue Officer calls for interference. He points out that the revision petition was filed by the third respondent against an order of the second respondent confirming the entries made in the revenue records in favour of the petitioners. In such proceeding, the fourth respondent filed an impleading petition and came to be impleaded as the

second respondent therein. Learned counsel invited my attention to the operative paragraphs of the impugned order and pointed out that the impugned order was passed on the misconception that Survey No.118/3E had not been conveyed in favour of the petitioners. By once again drawing my attention to the relevant sale deed, learned counsel submits that the entire extent of 3.33 acres was conveyed under the said document and that the relevant property was subsequently sub-divided into Survey No. 118/3C1, 118/3C2 and 118/3E. In this connection, he relies on the pattas.

5. Learned Additional Government Pleader appearing for respondents 1 and 2 submits that the sale deed dated 07.11.1967 was executed by Ramasamy Thevar not only on his own behalf but also on behalf of one minor son, Ganesan, and Muniyasamy Thevar, who was a major at the relevant point of time. This contention is refuted by learned counsel for the petitioners by pointing out that the sale deed was executed not only by Ramasamy Thevar but also by Muniyasamy Thevar. Learned Additional Government Pleader further submits that title cannot be and was not decided by the first respondent and that it is always open to the

petitioners to approach the revenue authorities after the civil court decides the disputed claims of the petitioners, on the one hand, and the fourth respondent, on the other. Learned Additional Government Pleader further submits that the first respondent acted on the basis of a conveyance dated 13.10.2009 by the sons of Ramasamy Thevar, namely, Ganesan and Munniyasamy Thevar to Muthu Murugan.

6. In spite of service of notice and the printing of the names of the respondents in the cause list, the private respondents did not appear either in person or through counsel.

7. The documents on record *prima facie* indicate that 3.33 acres under Survey No.118/3 were conveyed in favour of the mother of the fifth respondent. The petitioners have also placed on record the relevant pattas, including in respect of Survey No.118/3E. In these facts and circumstances, in a revision petition filed by the third respondent herein, the first respondent should not have altered the revenue records relating to Survey No.118/3E by including the name of the fourth respondent. To that extent,

the impugned order calls for interference. Accordingly, the impugned order is set aside to the limited extent that the first respondent has directed mutation of the patta by including the name of fourth respondent as a joint pattadar in Survey No.118/3E. Learned counsel appearing for the petitioners pointed out that O.S.No.159 of 2018 is pending before the Sub-Court, Ramanathapuram, in relation to a title dispute between the private parties. By leaving it open to the parties concerned to approach the revenue authorities for mutation in accordance with the decree of the civil court, W.P.(MD).No.8084 of 2016 is disposed of on the terms indicated above. There shall be no order as to costs. Consequently, connected W.M.P(MD).No.6603 of 2016 is closed.

27.03.2023

NCC :No
Internet :Yes
Index :No
ssb

To

- 1.The District Revenue Officer,
Ramanathapuram District, Ramanathapuram.
- 2.The Revenue Divisional Officer,
Ramanathapuram District.

W.P.(MD)No.8084 of 2016

SENTHILKUMAR RAMAMOORTHY, J.

ssb

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