



W.P(MD)No.27671 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.01.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.27671 of 2022

and

W.M.P.(MD)No.21784 of 2022

Nagarajan @ Nagaraj

... Petitioner

Vs.

1.The District Revenue Officer,
Theni District.

2.The Revenue Divisional Officer,
Periyakulam, Theni District.

3.The Tahsildar,
Andipatti Taluk,
Theni District.

4.The Sub Registrar,
Andipatti,
Theni District.

5.Mayee

6.Mayilammal

7.Chinnan

8.Ammavasi

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the



W.P(MD)No.27671 of 2022

records relating to the impugned order dated 21/07/2022 in Na.Ka.No.9961/2020/D2 passed by the 1st respondent and quash the same and consequentially to direct the 1st respondent to correct the mistake in the revenue records for Survey No.1235, Mottanoothu Village, Andipatti Taluk, Theni District measuring 3 Acres 89 Cents equivalent to 1.57.5 Hectares and to restore the same in the name of the petitioner.

For Petitioner : Mr.T.R.Jayapalam

For Respondents : Mr.A.K.Manikkam,
Spl. Government Pleader for R1 to R4.
Mr.R.Rajaraman for R5 to R8.

ORDER

Heard the learned counsel on either side.

2.The property in question was assigned in favour of the writ petitioner's mother/Veera Alagammal way back in the year 1969. After her demise, patta was mutated in favour of the writ petitioner. The petitioner alleges that during UDR, records were erroneously mutated in favour of one Ocha Thevar. The said Ocha Thevar had executed a settlement deed in favour of his son Mayee in the year 2010. The petitioner had lodged a complaint in the year 2011 itself. After a battle ranging over 11 years, the impugned order dated 21.07.2022 came to be passed by the first respondent calling upon the petitioner to move the



W.P(MD)No.27671 of 2022

jurisdictional Civil Court for relief. Challenging the said order, this writ petition came to be filed.

3.The learned counsel for the writ petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order and grant relief as prayed for.

4.The contentions advanced by the learned counsel for the petitioner are undoubtedly attractive. In fact, the first respondent himself in the impugned order has acknowledged that the mutation made in favour of Ocha Thevar during UDR was erroneous. Even according to the private respondents, the petitioner had executed an unregistered sale deed in favour of Ocha Thevar. Based on which, UDR change was effected. It is too well settled that an unregistered sale deed cannot be acted upon or taken cognizance. Therefore, the authorities had clearly erred in effecting change in the revenue records during UDR in favour of Ocha Thevar. At the same time, the question that arises is whether it can be undone at this point of time. The learned counsel for the petitioner is of course right in his contention that the government order issued by the Government has not prescribed any limitation for approaching District Revenue Officer for UDR errors. In this case, if it is a case of mere



W.P(MD)No.27671 of 2022

correcting an error, then limitation will not be a point put against the petitioner.

As found by the first respondent, the petitioner has not placed any record indicating payment of kist after 1984. The mutation in favour of Ocha Thevar took place some time in the year 1987. The learned counsel for the private respondents has produced copy of the patta pass book issued in favour of Ocha Thevar some time in the year 2002. Registered settlement deed has been issued in favour of the fifth respondent by Ocha Thevar in the year 2010. Thus for atleast 35 years, the private respondents have shown their possession and enjoyment of the subject property. It is for this reason, the first respondent declined to interfere in the matter. At the same time, the first respondent has not pronounced any order on the issue of title of the petitioner. I, therefore, sustain the order of the first respondent and permit the petitioner to move the jurisdictional Civil Court for appropriate relief. All issues regarding title as well as possession are left open. The jurisdictional Civil Court will independently go into the issue.

5.The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

20.01.2023

NCS : Yes/No
Index : Yes / No



W.P(MD)No.27671 of 2022

Internet : Yes/ No
ias

To:-

- 1.The District Revenue Officer,
Theni District.
- 2.The Revenue Divisional Officer,
Periyakulam, Theni District.
- 3.The Tahsildar,
Andipatti Taluk,
Theni District.
- 4.The Sub Registrar,
Andipatti,
Theni District.



WEB COPY



W.P(MD)No.27671 of 2022

G.R.SWAMINATHAN, J.

ias

W.P(MD)No.27671 of 2022

20.01.2023