



W.P(MD)No.19783 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.08.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.19783 of 2017
and
M.P.(MD)No.16041 of 2017

Saba Srinivasan

... Petitioner

Vs.

1.The Zonal Deputy Tahsildar,
Taluk Office, Thanjavur.

2.Kalyanaraman

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the proceedings of the 1st Respondent in his Tho.Mu.Pa Ma.No.3602/2017 dated 09.08.2017 and quash the same as illegal.

For Petitioner : Mr.S.Sathiaseelan
for Mr.P.Ganapathi Subramanian

For Respondents : Mr.S.Shanmugavel
Additional Government Pleader for R1

: Mr.G.Prabhu Rajadurai

for Mr.G.Mohan Kumar for R2



W.P(MD)No.19783 of 2015

ORDER

Heard the learned counsel on either side.

2. The writ petitioner and the second respondent are brothers. There is a contest between them over the petition mentioned property that stood in the name of their paternal aunt Vijaya Lakshmi. Vijaya Lakshmi passed away on 28.01.2017. She was a divorcee. She also died issueless. The second respondent claims that Vijaya Lakshmi had executed a registered will dated 12.11.2014 in his favour bequeathing the petition mentioned property. Acting on the application dated 08.08.2017, the Zonal Deputy Tahsildar, Thanjavur changed patta in favour of the second respondent. Challenging the same, this writ petition came to be filed.

3. The learned counsel appearing for the petitioner raised very many contentions while assailing the impugned order. I am however spared the labour of considering the same. This is because, admittedly, the petitioner is also one of the Class II Legal Heirs and he has not been put on notice by the first respondent before passing the impugned order. Where there is more than one legal heir for the deceased property, without notice to all of them, the authority cannot effect mutation in the revenue record. The revenue record



W.P(MD)No.19783 of 2015

reflected the name of the deceased Vijaya Lakshmi. The rights of the parties will abide by the outcome of S.O.P.No.9 of 2018 on the file of the Principal District Judge, Thanjavur that is presently pending between them. I make it clear that I have not gone into the merits of the matter. The jurisdictional civil Court will decide the issue on the strength of the evidence adduced before it.

4. In this view of the matter, the order impugned in the writ petition is set aside. The Writ Petition is allowed. No costs. Connected miscellaneous petition is closed.

30.08.2023

Index : Yes / No
Internet : Yes/ No
rmi

To

The Zonal Deputy Tahsildar,
Taluk Office, Thanjavur.

G.R.SWAMINATHAN, J.

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W.P(MD)No.19783 of 2015

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