



W.P(MD)No.3768 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.03.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.3768 of 2024

S.Nagaraj

... Petitioner

Vs.

1.The Revenue Divisional Officer,
Uthamapalayam,
Theni District.

2.The Tahsildar,
Bodinayakkanur,
Theni District.

3.K.Ramu

4.Maharajan

5.Ayappan

6.Tamilarasi

7.Vinumoorthy

8.Kamatchi

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating with the impugned order of the first respondent dated 18.01.2024 in Mu.Mu.No.1010/2023/A3 and quash the same as illegal and consequently directing the respondents 1 and 2 to restore the patta in the name of original owner, namely, Ganapathy Devar, S/o.Subbaiah Devar in the property in S.No.442/2, Rasingapuram Village, Bodinyakkanur Taluk, Theni District as per the earlier order of the second respondent dated 01.03.2019 in Mu.Mu.No.125/2017/A2.

For Petitioner : Mr.S.Saravana Kumar

For Respondents : Mr.D.Gandhi Raj
Special Government Pleader
for R.1 & R.2

No Appearance for R.3 to R.8

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Special Government Pleader appearing for the respondents 1 and 2. Though the private respondents have been served and their name is printed in the cause list, they have not chosen to enter appearance.



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2.The petition mentioned property stood in the name of Ganapathy Devar. The said Ganapathy Devar is no more. The question is in whose name the revenue record should be mutated. The petitioner claims to be Ganapathy Devar's grandson. Private respondents also claim that they are legal heirs of Ganapathy Devar. There is a dispute between two. On 01.03.2019, Tahsildar, Bodinayakkanur passed an order to the effect that the parties should move the civil Court and obtain relief. In fact, such an order was passed pursuant to the remand order made by the Revenue Divisional Officer, Uthamapalayam on 16.10.2017. The petitioner had moved the Revenue Divisional Officer, Uthamapalayam challenging the incorporation of the names of the private respondents in the revenue record.

3.Following the order passed by the Tahsildar, Bodinayakkanur, the petitioner filed O.S.No.18 of 2019 on the file of District Munsif Court, Bodinayakkanur seeking the relief for declaration etc. During pendency of civil suit, in the year 2023, Patta No.11548 of 2023 has been issued incorporating the names of the private respondents. It is this that is challenged by the petitioner.



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4. When the Tahsildar had already taken the view that the revenue record will reflect the name of Ganapathy Devar alone and that the persons having competing claims of legal heirship will have to establish their case in civil Court, the very same authority cannot revisit the issue. He becomes what is known as “functus officio”.

5. This is all the more so because when the petitioner has already move the jurisdictional civil Court for appropriate relief. The impugned order of the first respondent is set aside. The revenue record will reflect the name of Ganapathy Devar alone. The rights of the parties will be governed by the outcome of the civil suit.

6. This writ petition is allowed accordingly. There shall be no order as to costs.

20.03.2024

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

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G.R.SWAMINATHAN, J.

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