



W.P.(MD) No.12194 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.09.2024

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.12194 of 2024
and
W.M.P(MD)No.10816 of 2024

S.Ramkumar

.. Petitioner

Vs.

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

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

3.The Tahsildar,
Theni,
Theni District.

4.The Sub-Registrar,
Theni,
Theni District.

5.Mrs.Lakshmi

.. Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.35676/2023/D1 dated 20/02/2024 passed by the first respondent herein and quash the same as illegal and consequently direct the respondents 1 and 3 herein to mutate and restore the patta to the subject property in S.Nos.5/1, 6/2, 7/2 at Unjampatti Village, Theni Taluk & District in favour of R.Jeyaprakash and R.Sivaji.

For Petitioner	:	Mr.S.Saravanan
For R1 to R4	:	Mr.P.Thambidurai Government Advocate
For R5	:	Mr.S.Balaji

ORDER

Challenging the order passed by the first respondent in his proceedings dated 20.02.2024 in Na.Ka.No.35676/2023/D1 and to quash the same and consequently, to direct the first respondent to correct the error in the UDR and issue patta including the name of the petitioner in respect of the property S.No.5/1 to an extent of 17.29 cents and S.No.6/2 to an extent of 1 acres and 42 cents in S.No.7/2 t an extent of 21 cents,



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totally 82.29 cents situated at Oonjamatti Village, Theni Taluk, Theni District.

2.The contention of the petitioner is that the property comprised in S.Nos.5/21, 6/2, 7/2 situated at Oonjampatti Village, Theni Taluk, Theni District, was purchased by his great grandfather viz., Krishnasamy Servai, under a registered sale deed 31.08.1905. Thereafter, the said Krishnasamy Servai died leaving behind surviving his sons, viz., R.Jeyaprakash and R.Sivaji. The said Jeyaprakash and sivaji had also passed away and the petitioner is the son of late Sivaji. It is his contention that the revenue records including the UDR patta stood only in the name of Jeyaprakash and Sivaji. The said properties had never transferred in any form for the last 119 years. While so, the fifth respondent, who is a stranger in respect of the property appears to be mortgaged the same. The mortgage deed has been created by her husband in favour of one Subbaiyan Chettiyar on 04.01.1972. Since he shares the same name, as the fifth respondent's husband this similarity in name has been taken advantage of the petitioner's grandfather's name is



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K.Ramasamy Servai. The fifth respondent's husband name is Ramasamy, S/o.Peethambaram Servai and he died in the year 1997.

3.On the basis of the said mortgage deed, the fifth respondent appears to have filed a petition before the second respondent seeking correction of the patta and the revenue records. Pursuant to which, the second respondent, without proper enquiry, has issued notice to the death persons and passed the impugned order mutating the name of the fifth respondent and her legal heirs in respect of the property in UDR patta. The petitioner seek to challenge the same on the ground that the second respondent is not the competent authority to rectify the entry in the UDR patta to the dead persons and the impugned order has been passed without hearing the other legal heirs of Ramasamy Servai.

4.Heard the learned counsels on either side.

5.Taking into account the fact that the impugned order has been passed without issuing notice to the persons, who are in possession of the



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suit property in question, and taking into account of the fact that the Revenue Divisional Officer has rectified the UDR patta without jurisdiction, this Court sets aside the impugned order passed by the first respondent dated 20.02.2024 in Na.Ka.No.35676/2023/D1 and the matter is remitted back to the first respondent for fresh consideration and pass orders in accordance with law, after issuing notice to all the parties, who are in having right to the possession/ possession of the property, within a period of twelve weeks from the date of receipt of a copy of this order.

6. With the above direction, this Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

19.09.2024

NCC : Yes/No
Index : Yes/No
Internet : Yes
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P.T.ASHA, J.

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To

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