



W.P(MD)No.18008 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.02.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.18008 of 2021

and

W.M.P.(MD)Nos.14881 and 14882 of 2021

P.Uma Maheshwari

... Petitioner

Vs.

1.The Commissioner for Land Administration,
Ezhilagam, Chepauk,
Chennai – 600 005.

2.The District Revenue Officer,
Madurai District, Madurai.

3.The Revenue Divisional Officer,
Madurai Division, Madurai.

4.The Tahsildar,
Madurai North Taluk,
Madurai District.

5.The District Registrar (Administration),
Madurai North District,
Madurai District.

6.M.V.Raghuveer

7.Hemavathy

... 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 impugned order passed by the 2nd Respondent in Pro.R.Dis.G2/2792/2015 dated 19.01.2016 (fair copy received on 17.05.2021) and quash the same as arbitrary and illegal and consequently direct the Respondents to restore patta in the name of M.M.Chelliah with regard to an extent of 47 cents of land located on the western side (upper portion) of S.No.99/5 (New Survey No.105/C1A) of Vilangudi I Bit village, Madurai North Taluk, Madurai District and make subsequent changes in the Revenue records.

For Petitioner : Ms.W.Pamelin

For Respondents : Mr.T.Villavan Kothai,
Addl. Government Pleader for R1 to R5.
No appearance for R6 & R7.

ORDER

Heard the learned counsel for the writ petitioner, the learned Additional Government Pleader for the official respondents. The private respondents have been served and their names are also printed in the cause list, they have not chosen to enter appearance.



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2. One Nallakumara Thevar and Ammanan @ Karuppiah Thevar were brothers. It is stated that in the partition effected between them, 47 cents was allotted to Nallakumara Thevar and 47 cents was allotted to Ammanan @ Karuppiah Thevar. Nallakumara Thevar settled 47 cents in favour his nieces namely Lakshmi and Rakku (23 ½ cents each). The said document bearing Document No.2863/1952 contained a condition that if they did not have any male heirs, they will have to convey the property in favour of the settlor's brother namely, Ammanan @ Karuppiah Thevar. Accordingly, Lakshmi and Rakku settled the property in favour Ammanan @ Karuppiah Thevar vide Document No.1983/1968 dated 03.05.1968. Thereafter, vide Document No.1984/1968 dated 04.05.1968, Ammanan @ Karuppiah Thevar re-settled the property in favour of Lakshmi and Rakku. Vide Document No.2480/1974 dated 18.11.1974 and Document No.854/1975 dated 15.05.1975, M.M.Chelliah who is none other than the grandfather of the petitioner herein purchased the said 47 cents of land from Lakshmi and Rakku. The revenue record was mutated in favour of M.M.Chelliah and patta No.969 standing in the name of M.M.Chelliah has been enclosed in the typed set of papers.



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3.While so, the sixth respondent / Raghuveer purchased 47 cents of land from the power agent of the husband of Rakku in the year 2000. He filed a petition before the Revenue Divisional Officer, Madurai for deletion of the name of Chelliah and for including his name. The said petition was allowed on 30.05.2013. Challenging the same, Rama, granddaughter of M.M.Chelliah filed revision petition before the District Revenue Officer, Madurai. It was dismissed on 19.01.2016. Challenging the same, this writ petition came to be filed.

4.The learned counsel for the 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.

5.The Tahsildar, Madurai North Taluk filed a detailed counter affidavit and the learned Additional Government Pleader took me through its contents. He submitted that the impugned orders are well reasoned and that there is no merit in the writ petition. He pressed for dismissal of the writ petition.



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6.I carefully considered the rival contentions and went through the materials on record. Even in the counter affidavit filed by the revenue authorities, it is stated that Raghuveer purchased 47 cents of land vide sale deed bearing Document Nos.1022 and 1023/2000. The executants of the said documents traced their right to the power of attorney bearing Document No.205/1999. It is too obvious that the petitioner's grandfather / M.M.Chelliah had purchased 47 cents of land vide registered documents from Lakshmi and Rakku way back in the year 1974 and 1975. The purchase by the petitioner's grandfather is prior in point of time. The flowchart found at Page No.5 of the counter affidavit filed by the Tahsildar, Madurai North Taluk itself would indicate that the purchase by M.M.Chelliah is prior in point of time. However, there is still scope for ambiguity. Nallakumara Thevar and Ammanan @ Karuppiyah Thevar are siblings. The property originally measured an extent of 94 cents and it belonged to Palaniandi Thevar. Nallakumara Thevar got 47 cents and Ammanan @ Karuppiyah Thevar got 47 cents. M.M.Chelliah purchased 47 cents of land that fell to the share of Nallakumara Thevar. We do not know if Ammanan @ Karuppiyah Thevar had legal heirs. If he had no legal heirs, obviously, Lakshmi and Rakku would have inherited 47 cents of land belonging to Ammanan @ Karuppiyah Thevar. One is not quite sure that if the



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property purchased by Raghuveer is traceable to the 47 cents of land belonging to Nallakumara Thevar. Raghuveer and his wife have not chosen to appear before this Court to contest the writ petition. In my view, the title of Rama Chelladurai and Uma Maheswari over 47 cents of land traceable to Nallakumara Thevar is beyond dispute. But I am not able to straightaway allow the writ petition and restore the original position for the simple reason that the challenge has been mounted after a gap of more than five years. The District Revenue Officer, Madurai dismissed the revision petition filed by Rama on 19.01.2016. It was Rama who was the revision petitioner. She ought to have been sufficiently diligent. Uma Maheswari was shown as the second respondent in the revision petition. It is quite possible that some developments had taken place during the intervening period.

7.The matter is remitted to the file of the fourth respondent. The fourth respondent will issue fresh notice to the petitioner, respondents 5 and 7 and other interested parties, if any. The first hearing shall be held on 02.04.2024. Final order shall be passed within a period of twelve weeks thereafter. The remand order is made only for the purpose of earmarking the exact extent of land belonging to the petitioner and her sister / Rama.



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8.This writ petition is allowed on these terms. No costs. Consequently, connected miscellaneous petitions are closed.

13.02.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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