



W.P(MD)No.19753 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.01.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.19753 of 2020

Balakrishnan (Died)

1.Velammal

2.Achanna

3.Nandha Kumar

4.Radha Krishnan

5.Chitra

... Petitioners

*(Petitioners 1 to 5 are suo motu substituted
vide order dated 22.01.2024 in
W.P.(MD)No.19753 of 2020 by GRSJ)*

Vs.

1.The District Collector,
Thoothukudi District.

2.The Revenue Divisional Officer,
Kovilpatti, Thoothukudi District.

3.The Tahsildar,
Kovilpatti Taluk,
Thoothukudi District.

4.Murugan

... 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 pertaining to the 2nd respondent proceedings in Oo.Mu.A2/310/2020 dated 20/01/2020 and quash the same and direct the 2nd respondent hold the enquiry on the basis of the petitioner's petition dated 16/01/2020 and pass appropriate order of cancel the patta in favour on the 4th respondent and issue the patta in favour of the petitioner.

For Petitioners : Mr.S.Balaji

For Respondents : Mr.T.Vilavan Kotahi,
Addl. Govt. Pleader for R1 to R3.
Mr.S.Pon Senthil Kumaran for R4.

ORDER

Heard both sides.

2,The original writ petitioner claims that he and his brother / Alagiri Samy had purchased the petition mentioned property from the previous pattadars. His grievance is that the revenue record is incorrectly reflecting the name of the fourth respondent. Seeking modification of the revenue entry, the original petitioner lodged a petition on 16.01.2020. It was sent by registered post. It reached the Revenue Divisional Officer, Kovilpatti on 19.01.2020. On 20.01.2020, the impugned order relegating the original petitioner to move the



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jurisdictional Civil Court or Anti-Land Grabbing Cell was passed. Challenging the said memorandum, the present writ petition came to be filed.

3.The learned counsel for the petitioners 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 fourth respondent has filed counter affidavit and the learned counsel for the fourth respondent took me through its contents. His primary contention is that the revenue record reflected his father's name namely, Veluchamy Thevar and Veluchamy Thevar executed settlement deed dated 04.08.2011 in his favour and that based on the same, mutation was effected in his favour. Thereafter, the fourth respondent has settled half the extent in favour of his wife and sold the remaining extent in favour his sister-in-law. Copies of the settlement deed dated 02.09.2020 and the sale deed dated 02.09.2020 have been enclosed in the typed set of papers. He called upon this Court to dismiss the writ petition.

5.The learned Additional Government Pleader wanted this Court to sustain the impugned order.



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6.I carefully considered the rival contentions and went through the materials on record. I consciously refrain from going into the merits of the matter. I am mindful of the proposition that if contentious facts are involved, the revenue authority will have to relegate the parties to go before the jurisdictional Civil Court. But such a conclusion as to whether there are contentious facts must be arrived at only after an enquiry. It is too obvious from face of record that the second respondent did not conduct any enquiry at all. He received the petition and gave a summary disposal. Such a course of action is not contemplated. On this sole ground, the impugned order is set aside and the matter is remitted to the file of the second respondent. The second respondent will issue notice to the petitioner and the alienees of the fourth respondent. Proper enquiry shall be held. The principles and procedure to be adopted while effecting mutation of patta are fairly well settled. The second respondent will bear in mind those aspects and pass an order on merits and in accordance with law.

7.This writ petition is allowed on these terms. No costs.

22.01.2024

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

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