BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.12060 of 2015 and
MP(MD) Nos.2 & 3 of 2015

1.M.P.Maruthumamalai
2.M.Selvem ... Petitioners

Vs

1.The District Revenue Officer,
Madurai District.

2.The Tahsildar,
Madurai East Taluk,
Madurai District.

3.M.Angammal ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, to call for the records in Na.Ka.No.25958/2015/G5, dated 03.07.2015 and quash the same as illegal, ultra vires,unconstitutional and without jurisdiction.

For Petitioner : Mr.S.Ramesh
For R1 & R2 : Mr.A.Baskaran
Additional Government Pleader
For R3 : Mr.S.Anand Chandrasekar

O R D E R

This writ petition is filed challenging the order of the District Revenue Officer, in Na.Ka.No.25958/2015/G5, dated 03.07.2015.

2.The case of the petitioners is that one Angammal/the third respondent herein has approached the District Revenue Officer, Madurai that a mistake has been committed during UDR survey in the revenue records pertaining to the land in S.No.152/6, C.14.0 Ares, situated at Narasingam IV Bit Village, Madurai East Taluk, Madurai and the same was accepted by the District Revenue Officer, by the order impugned in this writ petition.

3.The learned counsel appearing for the petitioners submits that the third respondent filed a suit in OS.No.92 of 2014, as against the petitioners herein, before the District Munsif Court, Madurai Taluk, for declaring the settlement deed, dated 22.10.2012, executed by the first petitioner herein in favour of the second petitioner is not binding her and also for the relief of injunction. Pending the suit, she also approached the District Revenue officer claiming that a mistake had been committed during UDR survey in the land in S.No.152/6, C.14.0 Ares, situated at Narasingam IV Bit Village, Madurai East Taluk, Madurai. Without considering the pendency of the suit instituted by the third respondent, the District Revenue Officer, Madurai had passed an order in favour of the third respondent. Therefore, the order impugned in this writ petition is liable to be dismissed.

4.The learned counsel appearing for the third respondent fairly accepts that the suit in O.S.No.92 of 2014 was filed by the third respondent as against the petitioners herein, challenging the settlement deed, dated 22.10.2012, executed by the first petitioner in favour of the second petitioner. According to the learned counsel, this settlement deed, dated 22.10.2012 is based on an oral sale, through which, the first petitioner has got right over the subject property. Therefore, the District

Revenue Officer considering the fact that the claim of the first petitioner over the subject property is based on the oral sale, has passed the order in favour of the third respondent. The learned counsel further submits that the suit in O.S.No.92 of 2014 filed by the third respondent was withdrawn by her on 28.03.2019, with liberty to file a fresh suit. Accordingly, the third respondent has filed a suit afresh in OS.No.1069 of 2022, before the II Additional Sub Court, Madurai for the relief of declaration and recovery of possession and it is pending.

5.This Court considered the rival submissions made and perused the materials placed on record.

6.The first petitioner has executed a settlement deed, dated 22.10.2012 in favour of the second petitioner for the property in Resurvey No.152/6C and UDR Survey No.50/6 to an extent of 0.14.0 Ares, situated at Narasingam IV Bit Village, Madurai East Taluk and the same was registered by the Sub Registrar, Othakkadai vide Document No. 4989/2012. The third respondent herein filed a suit in O.S.No.92 of 2014 as against the petitioners herein, challenging the above settlement deed, dated 22.10.2012. Pending the suit, she approached the District Revenue Officer to rectify the mistake crept in the revenue records pertaining to the subject property and the same was ordered in favour of her, when the suit was pending. It appears that the above suit was subsequently withdrawn by the third respondent with liberty to file a suit afresh. Admittedly, the decision was taken by the District Revenue Officer in his proceedings in Na.Ka.No.25958/2015/G5, dated 03.07.2015, when the suit was pending. It is not proper on the part of the revenue officials to decide the issue, when it is subjudice before the Civil Court. The third respondent has filed a suit in O.S.No.1069 of 2022 and it is now pending before the II Additional Sub Court, Madurai.

7.In view of the above, this writ petition is allowed and the order passed by the District Revenue Officer, in Na.Ka.No. 25958/2015/G5, dated 03.07.2015 is set aside. The third respondent shall work out her remedy in the civil suit in O.S.No.1069 of 2022, before the II Additional Sub Court, Madurai. The learned Sub Judge shall conclude the trial as expeditiously as possible. No costs. Consequently, connected Miscellaneous Petitions are closed.

02.09.2024

NCC : Yes/No
Index :Yes/No
vrn

To

1.The District Revenue Officer,
Madurai District.

2.The Tahsildar,
Madurai East Taluk,
Madurai District.

Copy to

The II Additional Sub Court, Madurai

B.PUGALENDHI,J.

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Order made in
WP(MD)No.12060 of 2015 and
MP(MD) Nos.2 & 3 of 2015

02.09.2024