



W.P(MD)No.28844 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.03.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.28844 of 2023

and

W.M.P.(MD)No.24887 of 2023

and

W.M.P.(MD)Nos.4277 and 6891 of 2024

Vijayan Soans

... Petitioner

Vs.

1.The Revenue Divisional Officer,
Kodaikanal, Dindigul District.

2.The Tahsildar,
Kodaikanal,
Dindigul District.

3.Karpaganaban

4.Prbha Appasamy,

5.Sita Pranicker

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of the impugned order in Na.Ka.No. 2405/2019/A2 dated 11.10.2023 on the file of the 1st respondent and quash the same as illegal.



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For Petitioner : Mr.G.Prabhu Rajadurai

For Respondents : Mr.Veerakathiravan,
Addl. Advocate General,
For Mr.A.Kannan,
Addl. Government Pleader for R1 & R2.
Mr.A.M.Venkatakrisnan,
For Mr.M.Kemprij for R3.
No appearance for R4 & R5.

ORDER

Heard both sides.

2.The case on hand pertains to two survey numbers namely T.S.Nos.5 and 7 in Kodaikanal Village (Old S.Nos.309 and 311). It is not in dispute that the said survey numbers reflected the names of Murthy Naidu and Ganaprakasam Muthali originally. According to the petitioner, the said items were purchased by his predecessor in title. This is contested by the private respondents herein. I do not want to go into the said rival claims. This is because the private respondents had filed O.S.No.17 of 1992 which was dismissed on 26.08.2019. The matter is presently pending on the file of Sub Court, Palani in A.S.No.91 of 2019.



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3. In the year 1990, the revenue records were mutated and the names of the legal heirs of Appasamy Pillai were entered. There appears to have been a partition among them and on that basis, mutations were once again effected in the year 2009 by the Tahsildar, Kodaikanal vide order dated 17.07.2009. This was questioned by the private respondents by filing an appeal before the Revenue Divisional Officer, Kodaikanal. On 02.08.2011, the order passed by the Tahsildar, Kodaikanal in the year 2009 was set aside. Challenging the same, the petitioner herein by filing a revision petition before the District Revenue Officer, Dindigul. On 07.07.2014, the District Revenue Officer, Dindigul confirmed the order passed by the Revenue Divisional Officer and relegated the parties to abide by the outcome of the civil suit. The net effect of these proceedings is that the position that obtained in the year 1990 stood restored.

4. Interestingly, after the dismissal of the suit and during the pendency of A.S.No.91 of 2019 on the file of Sub Court, Palani, the private respondents moved the Revenue Divisional Officer, Kodaikanal calling upon him to set aside the entries made in the year 1990. According to them, the lands were originally were free hold lands and therefore, the mutations in the revenue records in terms of the statutory scheme obtaining in Tamil Nadu Levy of



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Ryotwari Assessment on Free Hold Lands Act, 1972. They would contend that the Tahsildar, Kodaikanal could not have on his own arbitrarily entered the names of the legal heirs of Appasamy Pillai. Finding merit in this contention, the Revenue Divisional Officer, Kodaikanal vide proceedings dated 11.10.2023, deleted the names of the pattadars and confirmed the description of the land as free hold land in the revenue record. It is this that is put to challenge in this writ petition.

5.Though I do find the arguments advanced by the learned counsel for the private respondents to be having some force and persuasiveness, I am clearly of the view that the private respondents would lack the *locus standi* to even knock the doors of the Revenue Divisional Officer, Kodaikanal without first succeeding in the civil proceedings. This is more so because the District Revenue Officer, Dindigul had already issued proceedings on 07.07.2014 relegating the parties to await the outcome of the civil suit. So long as the proceedings of the District Revenue Officer, Dindigul held the field, the Revenue Divisional Officer, Kodaikanal who is a subordinate authority could not have passed any order running at cross purposes. If at all, it is only the Commissioner of Land Administration who could have taken any *suo motu* action, if permissible in law. I leave this issue open.



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6.I went through the contents of the suit prayer. The private respondents herein are admittedly out of possession. That is why, apart from seeking redemption of mortgage, they have also sought recovery of possession. The suit was dismissed in the year 2019 and the appeal suit is pending. Only if the private respondents succeed in the appeal suit, they can probably move the revenue authorities thereafter and definitely not till then. The impugned order is set aside for two reasons: (a) the Revenue Divisional Officer, Kodaikanal could not have passed the order in face of the earlier order dated 07.07.2014 passed by a higher authority namely, the District Revenue Officer, Dindigul. (b) They are yet to succeed in the civil proceedings; they could not have moved the Revenue Divisional Officer. Accordingly, the impugned order is set aside and the writ petition is allowed. The rights of the private respondents will abide by the outcome of A.S.No.91 of 2019 on the file of Sub Court, Palani. The learned Sub Judge, Palani is directed to dispose of A.S.No.91 of 2019 on merits and in accordance with law on or before 31.07.2024. No costs. Consequently, connected miscellaneous petitions are closed.

26.03.2024

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

ias

To:-

- 1.The Revenue Divisional Officer,
Kodaikanal, Dindigul District.
- 2.The Tahsildar,
Kodaikanal,
Dindigul District.

Copy to :-

The Sub Court,
Palani.

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