BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.07.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MR.JUSTICE K.RAJASEKAR

W.A.(MD)No.1854 of 2025 AND
C.M.P.(MD)Nos.10488 &10489 of 2025

K.Raman ... Appellant / 6th Respondent

Vs.

1. A.Asirvatham ... 1st Respondent / Writ petitioner

2. The District Collector,
   O/o.the District Collector,
   Madurai,
   Madurai District.

3. The District Revenue Officer,
   O/o.the District Revenue Officer,
   Collectorate Complex,
   Madurai,
   Madurai District.

4. The Revenue Divisional Officer,
   O/o.the Revenue Divisional Officer,
   Usilampatti,
   Madurai District.

5. The Tahsildar,
   O/o.the Tahsildar,
   Usilampatti Taluk,
   Madurai.

6. The Sub Registrar,
O/o.the sub Registrar,
Registration Department,
Usilampatti,
Usilampatti Taluk. ... Respondents 2 to 6/ Respondents 1 to 5

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order made in W.P.(MD)No.3521 of 2025 dated 30.04.2025 on the file of this Court and allow the above writ appeal.

For Appellant : Mr.K.Surendran

For R-1 : Mr.Sricharan Rangarajan,
Senior counsel,
for Mr.S.Ramsundarvijayraj.

For R-2 to R-6 : Mr.A.Kannan,
Additional Government Pleader.

* * *

JUDGMENT

(Order of the Court was delivered by G.R.SWAMINATHAN, J.)

Heard both sides.

2. One Andi Thevar owned 1 acre and 67 cents of land in survey Nos.146/5 and 146/10 in Kavandanpatti Village, Usilampatti Taluk. The case on hand pertains to 55 cents of land in survey No.146/10 alone. Vide order dated 25.06.2003, the Tahsildar, Usilampatti

mutated the revenue record in respect of the said survey number in favour of the writ petitioner Asirvatham. Aggrieved by the same, Raman, the appellant herein filed revision before the Revenue Divisional Officer, Usilampatti.

3. The Revenue Divisional Officer vide order dated 02.04.2008 directed that the revenue record will reflect the name of not only Asirvatham but also the appellant herein. Aggrieved by the same, Asirvatham filed an appeal before the District Revenue Officer, Madurai. The District Revenue Officer, Madurai vide order 09.06.2010 set aside the order dated 02.04.2008 and remanded the matter to the file of the Revenue Divisional Officer, Usilampatti for fresh consideration. For several years, there was no development and the matter simply lay in limbo. Vide order dated 27.11.2023, the Revenue Divisional Officer, Usilampatti directed that Raman will be entitled to 27½ cents in survey No.146/10B. Aggrieved by same, Asirvatham filed revision before the District Revenue Officer, Madurai. The District Revenue Officer, Madurai vide order dated 07.01.2025 confirmed the order of the Revenue Divisional Officer, Usilampatti. Challenging the same, Asirvatham filed W.P.(MD)

No.3521 of 2025. The learned single Judge vide order dated 30.04.2025 quashed the order passed by the Revenue Divisional Officer as well the District Revenue Officer. The writ petition was allowed with a direction to the revenue authorities to mutate survey Nos.146/10A and 146/10B in favour of the writ petitioner. Liberty was granted to Raman to approach the civil Court. It was directed that if Raman succeeded in the civil Court, the Revenue records will be mutated accordingly. Challenging the same, this writ appeal came to be filed.

4. As far as the genealogy is concerned, there is no dispute. The property in question originally belonged to one Andi Thevar. He was blessed with two sons, namely, Veerana Thevar and Chinna Veera Thevar. Raman belongs to Chinna Veera Thevar branch. The writ petitioner Asirvatham belongs to Veerana Thevar Branch. We wanted to know as to how the revenue record was originally mutated in favour of the writ petitioner Asirvatham.

5. The learned Senior counsel for the first respondent / writ petitioner submitted that the mutation was made in his favour on 25.06.2003 on the strength of the decree dated 19.12.1997 in O.S.

No.63 of 1997 on the file of the District Munsif, Usilampatti and on the basis of the observations and findings rendered in O.S.No.220 of 1978 dated 16.06.1979 and A.S.No.159 of 1979 dated 24.11.1980. Copies of the judgment rendered in O.S.No.220 of 1978 and A.S.No. 159 of 1979 have been enclosed in the typed set of papers. It is seen therefrom that one Chinna Veera Thevar who is the paternal uncle of the writ petitioner filed O.S.No.220 of 1978 against the appellant Raman and his mother Veerakkal. The suit was for permanent injunction and the same was dismissed on 16.06.1979. The first appellate Court confirmed the dismissal of the suit. The appellant's paternal uncle was examined as P.W.1. He stated that in the property in question, Mayakkal, mother of the writ petitioner was residing with his permission. The trial Court came to the conclusion that it has not been proved that Mayakkal was in permissive possession and held that injunction cannot be granted against true owners. It is relevant to note that neither the writ petitioner nor his mother were parties to O.S.No.220 of 1978.

6. We fail to understand as to how the said observation or finding can be pressed into service against the appellant herein.

Based on the testimony of the plaintiff(PW1) who belonged to the writ petitioner's branch, O.S.No.220 of 1978 had suffered dismissal. The said finding can only be pressed into service to show that since 1978, the writ petitioner's mother has been residing in the property in question and not for any other purpose. The appellant herein did not lose the suit. On the other hand, the suit filed against him was dismissed. Therefore, a finding given on the strength of P.W.1's admission could not have been the basis of mutating the revenue record in favour of the writ petitioner. In O.S.No.63 of 1997, though the writ petitioner is figuring as the fifth plaintiff, neither Raman nor his mother were shown as defendants. It is also relevant to note that before effecting mutation in favour of the writ petitioner alone, neither the appellant nor his mother were put on notice. We are therefore of the view that the revenue record could not have been mutated exclusively in the name of the writ petitioner on 25.06.2003. It is agreed by the appellant as well as the writ petitioner that the revenue record can be restored in their names alone and that they would fight out their inter se claims before the jurisdictional civil court. We have to necessarily set aside the order of the revenue authorities also because they have virtually passed a partition decree and exceeded the scope of jurisdiction conferred on them. The order of the learned single judge as well as the order impugned in the writ petition are set aside. This writ appeal stands allowed in the following terms:

a) The revenue record in respect of the petition mentioned property shall reflect the names of the appellant and the writ petitioner only.

b) Their inter se claims and respective entitlements shall be resolved by the jurisdictional civil Court.

No costs. Consequently, connected miscellaneous petitions are closed.

(G.R.SWAMINATHAN, J.) & (K.RAJASEKAR, J.)
7th July 2025

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
PMU

To:

1. The District Collector,
   O/o.the District Collector,
   Madurai,
   Madurai District.

2. The District Revenue Officer,
   O/o.the District Revenue Officer,
   Collectorate Complex,
   Madurai,
   Madurai District.

3. The Revenue Divisional Officer,
   O/o.the Revenue Divisional Officer,
   Usilampatti,
   Madurai District.

4. The Tahsildar,
   O/o.the Tahsildar,
   Usilampatti Taluk,
   Madurai.

5. The Sub Registrar,
   O/o.the sub Registrar,
   Registration Department,
   Usilampatti,
   Usilampatti Taluk.

G.R.SWAMINATHAN,J.

AND

K.RAJASEKAR, J.

PMU

W.A.(MD)No.1854 of 2025

07.07.2025