

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 31.08.2016

DELIVERED ON : 28.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.2680 of 2013

and

M.P.No.1 of 2013

Pee and Dee Lands Holdings Private Limited,
represented by its
Chairman cum Managing Director,
N.Palaniswamy,
82, Cathedral Road,
Gopalapuram,
Madras - 86.

... Petitioner

Vs.

1.The District Revenue Officer,
Chennai.

2.The Tahsildar,
Mylapore - Triplicane Taluk.

3.Ragini Rajkumar

4.Nandakumar

5.Marikuthu

6.Gandhi

7.Arjunan

8.Dr.Usha Viswanath

... Respondents

[R.8 impleaded vide order of this Court dated
18.02.2015 made in M.P.No.2 of 2013 in
W.P.No.2680 of 2013]

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records bearing reference K.Dis.No.J2/22026/12, dated 07.01.2013 and quash the same as illegal, incompetent and without jurisdiction and further confirm the grant of patta in CA.58 of 2012, dated 13.01.2012.

For Petitioner : Mr.V.Ragavachari

For Respondents : Mr.R.Govindasamy,
Special Government Pleader for R.1 & R.2

Mr.B.Rajkumar Ashok Singh for R.3

Ms.G.Sumithra,
assisted by Mr.E.Narayanan
for R.4 to R.7

Mr.S.R.Raghunathan for R.8

ORDER

The petitioner/Private Limited Company challenges the proceedings of the first respondent, dated 07.01.2013, in and by which, the patta granted in favour of the petitioner in C.A.No.58/2012, dated 13.01.2012, has been cancelled and further direction was issued to restore the same to it's original entry and the Tahsildar, Mylapore-Triplicane Taluk - the second respondent herein, was directed to carry out the changes in terms of the said order.

2. The petitioner - the Chairman and Managing Director of the Company, in the affidavit filed in support of this writ petition, would aver that it is a well known Company and has been in the business of realtors-promotion and development for several decades and it has earned a name and reputation for itself in selling and promoting projects which have impeccable title and workmanship. The petitioner Company, during the course of business, had purchased the properties situated at 71/1, L.B.Road, Thiruvannmiyur, Chennai, after getting legal opinion and on scrutinising the title deeds.

3. The petitioner would further aver that the said property stood in the name of one Dr.Kuppusamy Naicker, who had purchased it in a Court Auction Sale conducted by the Civil Court, Poonamallee, in the year 1891 and more than a century, it has been in possession and enjoyment of his family and descendants. The petitioner had approached the legal representatives of Dr.Kuppusamy Naicker's sons, namely, M.K.Kanappa Naicker and M.K.Ramadass Naicker and their family and they have alienated the said property in favour of the petitioner by way of a registered sale deed in Document No.10756/2011, dated 07.10.2011, registered on the file of the Joint Sub Registrar-I, Saidapet, Chennai.

4. The petitioner claims that pursuant to the execution of the said sale deed, it also took possession and improved the property and on application, the revenue authorities also conducted an inspection and granted patta in favour of the petitioner and thereafter, it had spent a considerable amount for removing the

shrubs and *Velikathan* trees.

5. The petitioner Company also faced interference at the hands of the Assistant Commissioner of Police, Tharamani Range, Chennai - 20; the Inspector of Police, J-6, Thiruvanmiyur Police Station, Chennai; Ahamed Ibrahim and Ragini Rajkumar and therefore, filed W.P.No.15610 of 2012 and vide order dated 23.07.2012, this Court has granted liberty to the petitioner to agitate the matter before the appropriate civil Court and further observed that it is entirely a private dispute between the two contending parties and therefore, the writ petition cannot be maintainable and dismissed the same.

6. According to the petitioner, it paid Rs.32 Crores to it's vendors and got the title conveyed in it's favour by virtue of the above said sale deed and it is also the subject matter of proceedings before the second respondent, who vide his proceedings dated 28.06.2012, had also observed that the petitioner Company is in possession of the said property. It is the claim of the petitioner that it was granted patta on 13.01.2012 after verification of the relevant records and on personal inspection and ever since the date of purchase, the petitioner is in possession and enjoyment of the same and also made improvements on the said property and as such, it is having a right, title and possession.

7. The fourth respondent and four others as well as the third respondent had submitted the petitions to the first respondent claiming that they are in possession of the lands in question and without notice to them, patta has been illegally issued in favour of the petitioner and therefore, prayed for conducting an enquiry and issued the patta in their favour.

8. The petitioner would state that the second respondent called upon the petitioner to offer his explanation and the petitioner has submitted the detailed representations dated 21.09.2012 and 05.10.2012 respectively, to the first respondent as to how he derived right, title and possession of the properties in question.

9. The grievance expressed by the petitioner is that despite the fact that the adjudication really involves the disputed question of fact as to the title of the rival claimants, namely, private respondents in the writ petition, the first respondent under the guise of conducting an enquiry with regard to the legality of the patta granted in favour of the petitioner on 13.01.2012, had virtually assumed the role of a civil Court and gone into the title and vide impugned order dated 07.01.2013, cancelled the patta granted in favour of the petitioner on 13.01.2012, with a further direction to restore to it's original entry.

10. Mr.V.Ragavachari, learned Counsel for the petitioner has drawn the attention of this Court to the typed set of documents and would submit that it had purchased the lands bearing S.No.68/1 to

an extent of 0.38 acres, S.No.68/3 to an extent of 1.49 acres, S.No.68/4 to an extent of 0.43 acres and S.No.69/1 to an extent of 1.81 acres, aggregating to 4.11 acres, through the registered sale deed dated 12.12.2011 [Document No.10756/2011] and also obtained patta from the second respondent on 13.01.2012.

11. The learned Counsel for the petitioner, with regard to the rival claim projected by the respondents 3 and 8, submitted that there is a discrepancy with regard to paimash/survey numbers in the documents of title of Mrs.Usha and Mrs.Ragini [respondents 8 and 3] and it is not at all possible and though at the relevant point of time, paimash number was in vogue, curiously, survey number has been quoted and therefore, the documents under which the respondents 3 and 8 have placed reliance are fabricated and cooked up to sustain their illegal claim.

12. Insofar as the claim projected by the other respondents stating that the lands are classified as *Tukkiri Inams* and therefore, the petitioner cannot purchase the same, the learned Counsel for the petitioner has drawn the attention of this Court to the Glossary of Judicial and Revenue Terms and of Useful Words Occurring in Official Documents relating to the Administration of the Government of British India, compiled and published under the Authority of the Honourable the Court of Directors of the East-India Company and as per the said definition, *Tukkiri* means a Head Watchman or Overseer of a village and therefore, the right and title claimed by the other respondents, is also untenable one.

13. The learned Counsel for the petitioner, on a legal plea, made a submission that the first respondent has no right or authority to probe and go into the question of title as it falls within the domain of the competent civil forum to adjudicate the same and since fabricated records were put into use by the private respondents, the first respondent, who lacks expertise to adjudicate such kind of matters, ought to have directed them to approach the civil forum.

14. Insofar as the direction given to the petitioner to approach the civil Court in the order dated 23.07.2012 in W.P.No.15610 of 2012, it is the submission of the learned Counsel for the petitioner that since the petitioner, through the registered sale deed dated 07.10.2011, purchased the lands in question and also got patta issued by the second respondent on 13.01.2012, it is sure of his right, title and possession and it is for the rival claimants to approach the civil forum, for the reason that according to them, some of the lands belong to Marutheeswarar Temple and some lands have been classified as Inams and instead of doing so, they approached the first respondent for cancellation of patta and the first respondent without understanding the scope and purport of her jurisdiction and in fact, exceeding the same, had cancelled the patta granted in favour of the petitioner and prays for interference.

15. The learned Counsel for the petitioner, in support of his submissions, has placed reliance on the decision in *Sabesan Chettiar v. The District Revenue Officer* reported in 2011 (5) CTC 241.

16. Per contra, Mr.R.Govindasamy, learned Special Government Pleader appearing for the respondents 1 and 2 has invited the attention of this Court to the counter filed by the first respondent wherein it is averred that the property involved in this writ petition is admeasuring to an extent of 4.11 acres in Block No.30, T.S.No.13, Old Survey Nos.68/1, 68/3, 68/4 and 69/1 and the third respondent has submitted her version that S.Nos.117, 119, 120, 121, 122, 124, 125, 126, 136A, D, E, 138, 139 and 128 correspond to S.Nos.68/1, 3, 4, part and 5 part and 69/6, 69/5 and 69/2 and 69/1 (part) and she has stated that she along with her sister, purchased the property through the sale deed dated 11.08.1959 from Kannia A.Ramachar and Angaiya R.Sasharasnam and her father namely, K.A.Ramachar, had secured permission for sale of the property and eversince the date of purchase, they are in possession and her sister, she and the eighth respondent had exchanged the properties through the deed dated 20.03.1976 with their sister, namely, Girija and also claimed patta in their favour.

17. It is further stated that during the course of enquiry, a perusal of the file in J2/22026/2012, would disclose that the sale in favour of the third respondent was also mentioned and the land admittedly belongs to Marudeeswarar Swamy Temple and the 'A' Register, Chitta and Adangal also stood in the name of the respondents 3 and 8 and they also constructed a superstructure on the premises and also paid statutory levies.

18. The first respondent would further state in the counter affidavit that the genuineness of the records produced was also subjected to scrutiny and as the Taluk connected back-files are not available, the then District Revenue Officer was unable to decide the issue of title of the sixth respondent and three others, who also applied for cancellation of the patta granted in favour of the petitioner. It would reveal that they are not in possession of the property as they have not produced any document to substantiate their claim and also that they are the legal heirs of Kandan, Murugan, Munian and Kani.

19. The first respondent also took a stand that she had not relied upon both the documents submitted by the petitioner as well as the respondents 3 and 8 as the jurisdiction to decide over the title is civil in nature.

20. It is the submission of the learned Special Government Pleader appearing for the respondents 1 and 2 that the first respondent on an independent application of mind, had reached the conclusion to cancel the patta granted in favour of the petitioner and it cannot be faulted with.

21. The learned Counsel for the third respondent has invited the attention of this Court to the counter affidavit and would submit that since the sale deed presented by the petitioner was not registered and kept as pending document in P.No.448/2011, the petitioner had filed W.P.No.24022 of 2011 praying for issuance of a writ of Mandamus directing the jurisdictional Sub-Registrar to register and release the same and without impleading the third respondent or the eighth respondent, he managed to get the orders, based on which, the sale deed got registered and apprehending dispossession, the petitioner had also filed W.P.No.15610 of 2012, wherein this Court directed the petitioner to establish his right and despite the same, he managed to get the patta from the second respondent without any notice to them.

22. It is further submitted by the learned Counsel for the third respondent that the property was originally assigned paimash numbers and patta was issued in favour of Kesava Naicker on 06.02.1945 and the grandfather of the third respondent, namely, A.R.Rangachari had purchased the property and as per the settlement records, the paimash numbers were assigned to the corresponding survey numbers by the Settlement Officer on 21.08.1961 and the patta bearing No.39 was issued in respect of all the survey numbers except S.No.68/3 and the patta in respect of the said survey number is in patta No.29 and issued in 1974.

23. Insofar as the ownership claim by the petitioner is concerned, it is the submission of the learned Counsel for the third respondent that at no point of time, Kuppusamy Naicker had owned right, title and possession in respect of the said property and the documents relied on by the petitioner are nothing but fabricated and only xerox copies have been produced and the Tahsildar has granted patta, without due and proper application of mind, which has been set right by the first respondent through the impugned order.

24. In sum and substance, it is the submission of the learned Counsel for the third respondent that since the findings rendered by the first respondent are based on available records, it cannot be fault with and in the light of the order dated 23.07.2012, passed in W.P.No.15610 of 2012, it is for the petitioner to approach the competent civil forum and get his title declared and therefore, prays for the dismissal of this writ petition.

25. The learned Counsel for the respondents 4 to 7 would submit that though the District Revenue Officer has recorded a finding as if the petitioner did not produce any document to show that they are having right and ownership, the Land Settlement Officer, even in the year 1963, had categorically found that the revenue entries pertaining to S.No.68/3, Thiruvannamiyur Village were in favour of Murugan, Muniyan, Kandan and Kanni and also the entries in the 'A' Register pertaining to the said survey number before the illegal mutation, were only in favour of the said Murugan, Muniyan, Kandan and Kanni.

26. It is the further submission of the learned Counsel for the respondents 4 to 7 that in none of the earlier proceedings, the respondents 4 to 7 are made as parties and the petitioner has chosen to file O.S.No.1217 of 2012 on the file of VIII Assistant City Civil Court, Chennai, seeking injunction alone, but later on, seeks to withdraw the same, for the reasons best known to him and even at that time, the petitioner did not implead them and since the petitioner has failed to do so, he cannot agitate the same before the writ forum, which is barred by constructive *res judicata*.

27. It is also contended by the learned Counsel for the respondents 4 to 7 that if the matter is remanded to the first respondent, they are ready to produce the documents to show that they are the legal heirs of Murugan, Muniyan, Kandan and Kanni and also would produce the records to substantiate their right and title in respect of S.No.68/3 of the said village.

28. Mr.S.R.Raghunathan, learned Counsel for the eighth respondent has drawn the attention of this Court to the counter affidavit as well as typed set of documents and would contend that ever since the date of purchase by her and the third respondent through the registered sale deed bearing Document No.1735/1959 on 11.08.1959, they continue to remain in possession and enjoyment of the said property and the revenue records were mutated in their favour and subsequently, an extent of 6 Grounds out of the land purchased by them was conveyed through the registered Deed of Exchange in Document No.1040 of 1979 in favour of their sister, namely, Girija Mani, who is no more and they also put up a superstructure as well as factory building which have been approved by the Chief Inspector of Factories on 27.01.1965 and the said buildings were also subjected to statutory levies and to her shock and surprise, the second respondent issued patta in favour of the petitioner on 13.01.2012 and immediately, she and her sister took necessary steps to cancel the patta granted in favour of the petitioner by submitting a representation to the first respondent.

29. It is the further submission of the learned Counsel for the eighth respondent that the petitioner claims to purchase the property from Kuppusamy Naicker, but at no point of time, the said property was owned by the said person. A perusal of the sale deed in favour of the petitioner discloses that as many as 64 persons had conveyed the said property in favour of the petitioner and that itself creates a doubt as to the petitioner's title and possession and the records produced by them are fabricated and they have not chosen to produce the originals of the same.

30. It is also the submission of the learned Counsel for the eighth respondent that so far the registration of the sale deed dated 07.01.2013 is concerned, though the petitioner was very well aware of the right of the respondents 3 and 8, by virtue of the order dated 31.10.2011 passed in W.P.No.24022 of 2011, the said sale deed got registered and the petitioner also got patta on

13.01.2012 behind the back of the respondents 3 and 8 once again. The first respondent, on due and proper application of mind, rightly arrived at a decision to cancel the patta granted in favour of the petitioner on 13.01.2012, with a further direction to restore the revenue records to it's original entry.

31. Lastly, it is contended by the learned Counsel for the eighth respondent that in the light of the order passed in W.P.No.15610 of 2012, dated 23.07.2012, it is for the petitioner to approach the civil Court to establish it's title and possession and therefore, the respondents 8 and 3 cannot be directed to approach the competent forum to establish their right and possession and therefore, prays for the dismissal of this writ petition.

32. This Court paid it's best attention to the rival submissions and also perused the materials available on record.

33. A perusal of the typed set of documents filed by the petitioner, the third respondent, the respondents 4 to 7 and the eighth respondent would disclose the following facts:

33.1. The petitioner claims that as per the Sale Certificate issued in O.S.No.290 of 1883, Kuppusamy Naicker purchased the property. However, in the cause title of the said Certificate, the names of the respondents 8 and 3 find place and the originals have not been produced before the concerned authority, according to the contesting private respondents.

33.2. Insofar as the claim of the respondents 3 and 8 are concerned, especially of the property annexed to the said sale deed dated 11.08.1959, executed by Kannia A.Ramachar and Angiah R.Sahasranam in favour of the respondents 8 and 3, who were minors represented by their mother, the survey number has been mentioned in the said sale deed. However, in the earlier title deed dated 07.01.1947, executed in favour of A.R.Rangachariar, it is seen that the patta number has been struck off and paimash number has been written in ink. There is no corresponding signature to the alterations.

33.3. It is the submission of the learned Counsel for the petitioner that there is no paimash correlation to the survey numbers and the practice of assigning survey numbers came into being only at a later point of time and the veracity of those documents is highly doubtful and in fact, they are fabricated.

33.4. Insofar as the claims of the respondents 4 to 7 are concerned, they have filed 'A' Register Extract, dated 27.01.1963 and in respect of S.Nos.68/1 and 68/4, the names of the respondents 8 and 3 have been found place and in respect of S.No.68/2, the name of Marundeeswarar Swamy Temple Devasthanam represented by the present Trustee, finds place.

33.5. Insofar as S.No.68/3 are concerned, it is written as

T.D.No.130 - Tukhari Inam and the names of Muniyan, Murugan, Kandan and Kanni find place.

33.6. As per the Glossary of Judicial and Revenue Terms and of Useful Words Occurring in Official Documents relating to the Administration of the Government of British India, [referred to supra], it is submitted by the petitioner that *Tukhari* means a Head Watchman or Overseer of a village and *Tukhari-merai* means the quantity of corn given from the threshing floor to the watchman and the Encumbrance Certificate relating to S.No.68/3 indicates that there was a mortgage dated 28.08.2007, without possession executed by very many persons.

33.7. The first respondent in the impugned order, which is the subject matter of challenge herein, after extracting the contentions of the contesting parties, had also perused the Taluk Back-files and available land records and recorded a finding that there is no correlation to S.Nos.68/1, 68/3, 68/4 and 69/1 and the property which was purchased by Kuppusamy Naicker did not correlate with old S.Nos.71/1 and 71/2.

33.8. The first respondent also recorded a finding as regards the claim of the respondents 8 and 3 by stating that the Register of Occupier/Holder, dated 06.12.1956 disclosed the name of Aravumudhan Magan Rangachari and the names of the respondents 8 and 3 already registered ever since 1883, is questionable and doubtful for the said survey numbers as they have been registered only on 25.05.1959.

33.9. The first respondent also recorded a fact that the Taluk Back-file/ Encumbrance Certificates said to be enclosed in the Taluk Back File are not available and though the petitioner had purchased the land admeasuring to an extent of 4.52 acres, the actual land available is only 4.11 acres and they also applied to grant patta.

33.10. In respect of S.No.68/3 for which the respondents 4 to 7 made a claim, the first respondent recorded a fact that it is registered as *Tukhari Inam* in favour of Kandan, Murugan, Muniyan and Kanni and further recorded a finding that most of the revenue records stood in the name of the respondents 8 and 3 and they have not been issued with notice before changing the permanent revenue records.

33.11. The first respondent rejected the contention put forth on behalf of the petitioner as regards the paimash and survey numbers and recorded a finding that they have a definite link of document since 1944 and subsequent to the purchase, a superstructure was put up in the form of a factory and four buildings and property tax receipt was also available regarding those buildings. The respondents 4 to 7, according to the first respondent, are not in enjoyment and possession as they have not produced any document to prove their possession and enjoyment of

the land in S.No.68/3 (Paimash No.128) and they also failed to produce the legal heir certificate to prove that they are the legal heirs of the persons mentioned in the 'A' Register.

33.12. The first respondent has placed reliance upon the Taluk Back File and available records, but, however recorded the fact that Taluk Back File is not available. The petitioner had obtained the patta on 13.01.2012 vide Office Note File bearing No.TR 1693/11-12 and a perusal of the Note File which was obtained by the third respondent under the Right to Information Act would disclose that before issuance of a patta, the Tahsildar has issued a notice inviting objections dated 19.12.2011 and it was also published/affixed and since no response has been coming within fifteen days, has submitted the proposal.

33.13. The petitioner also gave an undertaking that in the event of objection/any Court proceedings are there, he is ready for cancellation of patta also.

33.14. The lands in question were also inspected and measured and recommendation is made for sub-division of Block No.30, T.S.No.13 in respect of 4.04 acres of land and accordingly, the petitioner was granted with patta on 13.01.2012.

34. A careful scrutiny and analysis of the materials placed on record would indicate that the matter in issue involves adjudication of the disputed questions of fact and especially, the genuineness and interpretation of very many documents.

35. No doubt, the first respondent is having jurisdiction to consider the request regarding cancellation of patta. An incidental question also arises for consideration that in the light of the Tamil Nadu Patta Pass Book Act and Rules framed thereunder, whether the first respondent is having jurisdiction to decide the question title?

36. The said issue is no longer *res integra* in the light of the following decisions:

36.1. In *Vishwas Footwear Company Ltd., v. The District Collector, Kancheepuram* reported in 2011 (5) CTC 94, a similar question arises for consideration and a Division Bench of this Court taking into consideration the earlier decisions, has come to the conclusion that when there is a dispute as to the title, the parties should be directed to the competent civil Court for adjudication of title dispute and the order cancelling the patta by the Revenue Divisional Officer in that order was set aside. It is relevant to extract the following paragraph:

"18. As far as the power of this Court to entertain a Writ Petition on disputed questions, we may refer to the following decisions of the Supreme Court in *Arya Vysya Sabha and others v. The Commissioner of Hindu*

Charitable and Religious Institutions & Endowments, Hyderabad and others, 1976 (1) SCC 292; *Rourkela Shramik Sangh v. Steel Authority of India Ltd. and another*, 2003 (4) SCC 317 and *Himmat Singh v. State of Haryana and others*, 2006 (9) SCC 256. Therefore, when disputed questions are involved, this Court will not entertain the writ petition and adjudicate upon such dispute, as it is for the parties to approach the civil Court to decide the issue. However, in the event the order challenged in the writ petition is questioned on the ground of want of jurisdiction, certainly this Court would entertain the writ petition and particularly when such an order was passed when effective remedy is available before a civil Court for a person or persons who seek for cancellation of patta. As already pointed out, though the fourth respondent has filed appeal to the Revenue Divisional Officer seeking for cancellation of patta, in view of the fact that the Revenue Divisional Officer cannot go into the civil dispute, his order cancelling the patta by deciding the disputed question of title is without jurisdiction. In this context, we may refer to the proviso to Section 14 of the Act which bars the suit. The proviso reads that if any person is aggrieved as to any right of which he is in possession by an entry made in the patta pass book under this Act, he may institute a suit against any person denying or interested to deny his title to such right of declaration of his right under Chapter VI of the Specific Relief Act and the entry in the patta pass book shall be amended in accordance with any such declaration. By that proviso, in the event any grievance is made by the fourth respondent over the patta granted to the appellant, he should have approached the civil Court for necessary orders. In the event the Revenue Divisional Officer had no jurisdiction to go into the disputed question of title and in spite of that fact if he decides the same, on the very same yardstick, the further remedy is only a revision under Section 13 of the Act which is limited to calling for and examining the records of either the Tahsildar or the appellate authority by the District Revenue Officer and such revisional power cannot be equated to appellate power. Hence, the contention of the fourth respondent that the appellant has got an effective remedy of appeal and without availing such remedy cannot file the writ petition, has no merit. Accordingly, the said contention is rejected."

36.2. The above said judgment was also considered in a subsequent judgment of this Court in *T.R.Dinakaran v. The Revenue Divisional Officer* reported in 2012 (3) CTC 823, wherein the cancellation of patta passed by the Revenue Divisional Officer, Aruppukkottai, was put to challenge and it is relevant to extract

hereunder paragraphs 18, 19 and 22:

"18. Even in respect of the power for cancellation of Patta is concerned, Section 10 contemplates only modification of entries in the Patta Pass Book Act under three circumstances as referred supra. In my considered view cancellation of Patta cannot be termed as modification of an entry. That is why Section 10 deals with only under three circumstances, namely, death of any person, transfer of interest in the land and any other subsequent change in the circumstances. Section 10 does not contemplate any eventuality in respect of rival claim over the title to the property. Section 14 of the said Tamil Nadu Patta Pass Book Act, 1983 takes care of such circumstances where the Proviso to Section 14 contemplates filing a Civil Suit by any person if he is aggrieved against any entry made in the Patta Pass Book with regard to any right of which he is in possession. Section 14 is reproduced hereunder for easy reference:

"14. Bar of Suits.- No suit shall lie against the Government or any officer of the Government in respect of a claim to have an entry made in any Patta Pass Book that is maintained under this Act or to have any such entry omitted or amended:

Provided that if any person is aggrieved as to any right of which he is in possession, by an entry made in the patta pass-book under this Act, he may institute a suit against any person denying or interested to deny his title to such right, for a declaration of his rights under Chapter VI of the Specific Relief Act, 1963 (Central Act 47 of 1963); and the entry in the patta pass-book shall be amended in accordance with any such declaration."

19. In view of the proviso to Section 14, if any person is aggrieved over the entry made in the patta pass book in respect of any property over which he claims title and also possession, he can only file a suit for declaration of his right and thereafter, the entry in the patta pass book can be amended in accordance with any such declaration made by the competent civil court. In this case, admittedly, the patta was standing in the name of the petitioner under patta No.949. The petitioner claims title over the property and equally, the respondents 4 to 9 also claim the same. If that is the position, the proper course for the respondents 4 to 9 is to go before the competent civil court and file a civil suit for declaration. Without doing so they cannot agitate the matter before

the first respondent straight away seeking for cancellation of patta standing in the name of the petitioner and consequently, seeking for grant of patta in their name. In any event, the petitioner herein has already filed a suit in O.S.No.63 of 2006 before the District Munsif Court, Aruppukkottai and same is pending. It is also an admitted fact that all these respondents are party respondents in the said suit. Therefore, in respect of the dispute over the title to the property, already a civil suit is filed before the competent civil court. Only when a decree is granted, the Revenue Authority can act according to the decree and make necessary changes in the patta pass book. While that being the position, the first respondent is not justified in passing the impugned order. It is needless to say that neither the first respondent nor any other Revenue Authority has got any power or jurisdiction to confer the title of the properties on any person while considering an application for grant of patta or for cancellation of patta. In this connection, it is useful to refer the decision of the Hon'ble Division Bench of this Court reported in *Vishwas Footwear Company Ltd. v. The District Collector and others*, 2011 (5) CTC 94 (DB) cited supra

22. In view of the categorical pronouncements made by the Hon'ble Division Bench of this Court as cited supra, the impugned order passed by the first respondent is unsustainable as the same was passed without jurisdiction and consequently, the same is set aside and the parties are directed to get their dispute adjudicated upon by the competent civil Court. Once their title to property is decided and declared by the competent Civil Court, thereafter, it is open to the parties to approach the competent authority under the Patta Pass Book Act for effecting necessary entries in the patta as contemplated under the said Act."

36.3. In *Selvaraju v. The District Revenue Officer, Thanjavur District* reported in 2015 (6) CTC 654, once again, the order for change of patta in favour of the fourth respondent was put to challenge and the learned Single Bench of this Court, after considering the following decisions:

(i) *C.Sabesan Chettiar v. The District Revenue Officer, Coimbatore District* reported in 2011 (5) CTC 241 (DB);

(ii) *Kuppusami Nainar v. The District Revenue Officer* reported in 1995 (1) MLJ 426;

(iii) *L.K.M.A.Mohammed Saleem, Tirunelveli v. The District Revenue Officer, Tirunelveli* reported in 2014 (3) TLNJ 145 (Civil);

(iv) *Rayathal v. Periya Kannu* reported in 2011 (1) MWN (Civil) 477;

(v) *T.R.Dinakaran v. The Revenue Divisional Officer* reported in 2012 (3) CTC 823; and

(vi) *Vishwas Footwear Company Ltd. v. The District Collector, Kancheepuram* reported in 2011 (5) CTC 94 (DB).

held that the parties who feel aggrieved over the entry relating to patta, can approach the civil Court.

37. In the case on hand, the petitioner on an earlier occasion, had filed W.P.No.15610 of 2012, praying for issuance of a writ of Mandamus to forbear the respondents 5 and 6 from interfering at the instance of the seventh respondent and insist on settling matters through 'Katta Panchayat' or in any manner attempt to interfere in matters that are civil in nature and the learned Single Bench of this Court, on appraisal of facts, held that the only course open to the petitioner if at all he wants to have any control over the said property, is to agitate the matter before the appropriate civil Court and further found that when once the role of the official respondents is removed, then, it is entirely a private dispute between the two contending parties and the remedy is elsewhere and not to file the writ petition.

38. Thereafter, the petitioner filed O.S.No.1217 of 2012 on the file of the VIII Assistant Judge, City Civil Court, Chennai, against one Karthikeyan, for permanent injunction and subsequently, the respondents 6 and 7 herein filed a petition for impleadment and by filing a Memo on 03.10.2012, the petitioner has withdrawn the said suit with liberty to file a fresh suit, if any cause of action arises in future.

39. The petitioner was also issued with a patta on 13.01.2012 and it is the submission of the learned Counsel for the petitioner that since the revenue records have been mutated in favour of the petitioner company and that they are in possession as per the patta, they need not approach the civil Court as they do not have any doubt as to the right, title and possession.

40. Subsequently, the respondents 3, 4, 8 and others had submitted the applications for cancellation of patta, to the first respondent, who vide impugned order dated 07.01.2013, had cancelled the entry relating to the petitioner with a further direction to restore the same to the original entry and also directed the second respondent - Tahsildar to carry out necessary changes and indicated that if any appeal against the said order may be preferred before

the competent Court of law within thirty days from the date of receipt of that order.

41. This Court is of the view that the question also involves adjudication of title and the petitioner as well as the private respondents had placed reliance upon very many documents, some of which are also of the vintage year. It is also not clear from the impugned order as to whether all the parties have produced the originals of the documents and the first respondent has also indicated in the order that the Taluk Back File is also not available and merely went on by the documents produced by the parties.

42. A careful scrutiny of the impugned order would also disclose that the order runs to twelve pages and the discussion part of the order runs to two pages. The petitioner as well as the private respondents accused each other as to the fabrication of the documents and records.

43. In the considered opinion of this Court, the matter in issue mainly pertains to the title and in the considered opinion of this Court, it requires necessary pleadings, oral and documentary evidence and the first respondent is not having enough expertise and jurisdiction to adjudicate the question of title.

44. Since the genuineness of the documents produced by the parties were also put in issue, it may require expert opinion also. The above cited decisions laid down the proposition that in the event of any dispute relating to the title of the property, the party who feels aggrieved over the entry regarding patta, is to file a civil suit before the competent civil forum and based on the said decree only, the jurisdictional revenue authority can act accordingly. Thus, the law is well settled.

45. This Court, in the light of the facts and circumstances of the case and the *ratio* laid down in the above cited decisions, is of the opinion that the first respondent ought to have directed the private respondents to approach the competent civil forum to work out their remedy, especially, with regard to their right, title and possession and instead, had adjudicated the disputed questions of fact, especially, with regard to the title and the same is impermissible in law.

46. In the result, this writ petition is allowed and the impugned order of the first respondent passed in K.Dis.No.J2/22026/12, dated 07.01.2013, is set aside and the patta granted in favour of the petitioner vide proceedings of the second respondent dated 13.01.2012, stands restored. However, the private respondents are at liberty to approach the competent civil forum to work out their remedy in accordance with law. It is also made clear that the findings/observations made herein are only for the purpose of disposal of this writ petition and this Court has not touched upon the merits of the claim projected by the respective parties

and it is for the competent civil forum to adjudicate the same based on the pleadings and quality of evidence tendered before it. No costs. Consequently, the connected miscellaneous petition is closed.

rsb

Sd/-
Assistant Registrar (CS-)

/TRUE COPY/

Sub-Assistant Registrar

To

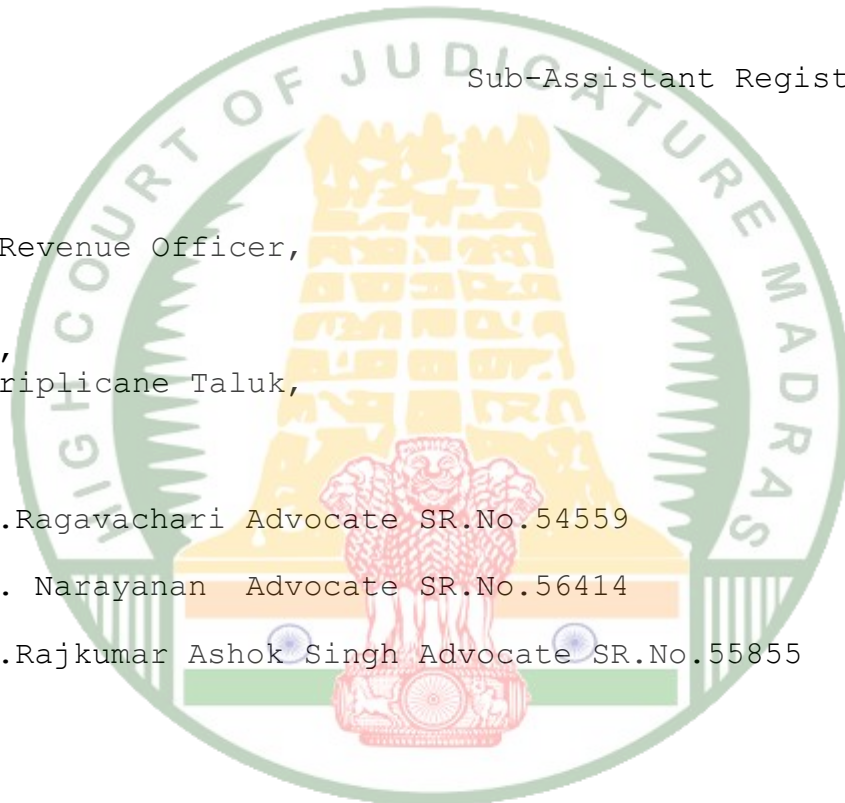
1.The District Revenue Officer,
Chennai.

2.The Tahsildar,
Mylapore - Triplicane Taluk,
Chennai.

+1 CC Mr.V.Ragavachari Advocate SR.No.54559

+1 CC Mr.E. Narayanan Advocate SR.No.56414

+2 CC Mr.B.Rajkumar Ashok Singh Advocate SR.No.55855



सत्यमेव जयते

ORDER MADE IN

W.P.No.2680 of 2013

and

M.P.No.1 of 2013

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