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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.10.2021

CORAM

THE HONOURABLE Mr.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.26017 of 2013  
and  
M.P.Nos.1 & 2 of 2013

1. K.Duraisamy  
2. D.Dhanalakshmi ... Petitioners

.Vs.

1. The Revenue Divisional Officer,  
Ponneri,  
Tiruvallur District.  
2. The Tahsildar,  
Ponneri,  
Tiruvallur District.  
3. Manavalan  
4. Shunmugam  
5. S.Selvarajendran  
(5<sup>th</sup> respondent impleaded as per Court  
Order dated 08.10.2021 in M.P.No.1 of 2014  
in W.P.No.26017 of 2013) ... Respondents

PRAYER:- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to quash the impugned order passed by the first respondent in Na.Ka.1414/2013/A1 dated 05.04.2013 after calling for records and quash the same.

For Petitioners : Mr.A.E.Ravi Chandran

For RR1 & 2 : Mr.M.R.Gokul Krishnan  
Government Advocate

For R3 & 4 : Mr.R.Kamaraj

For R5 : No appearance



## ORDER

This writ petition is filed to issue a Writ of Certiorari to quash the impugned order passed by the first respondent in Na.Ka.1414/2013/A1 dated 05.04.2013 after calling for records and quash the same.

2. While pending the writ petition, the first petitioner died. To that extent, memo was filed by the second petitioner as representing the estate of the deceased first petitioner.

3. The case of the deceased first petitioner is that the property comprised in survey No.289/1 and 289/2 admeasuring 1.77 acres situated at Gnayar Village, Ponneri Taluk, Tiruvallur District originally belonged to one Ramachandra Pillai and Krishnasami Pillai. The said Ramachandra Pillai sold the said property on 20.02.1950 in favour of one, Veeran who is none other than the great grandfather of the deceased first petitioner. Thereafter, the said Veeran and his brother jointly applied for patta and they were issued patta No.492. The said Veeran died leaving behind his son i.e. Kannan and Arjunan. The said Arjunan died issueless and the property was enjoyed by Kannan who is none other than the father of the deceased first petitioner. The deceased first petitioner is the only legal heir and he is enjoying the said property absolutely. In fact, patta was issued in his favour in patta No.52. In turn, the deceased first petitioner executed the settlement deed in favour of the second petitioner who is none other than the wife of the deceased first petitioner on 26.11.2012 to an extent of 1.26 acres out of 1.76 acres. The second petitioner was issued patta in patta No.2967.

3.1 While being so, the third party one, Selvarajendran attempted to interfere with the possession and enjoyment of the said property and produced registered sale deeds in his favour. Therefore, the petitioners filed suit in OS.No.211 of 2013 on the file of the District Munsif Court, Ponneri challenging the said sale deed as null and void and permanent injunction in respect of the suit property and it is pending for adjudication. On the application lodged by the third and fourth respondents herein, patta issued in favour of the second petitioner was cancelled and issued patta in favour of the third and fourth respondents by the first respondent herein.

4. The learned counsel for the petitioners would submit that the first respondent on the application of the third and fourth respondents herein, without even issuing any notice, without giving any opportunity of hearing cancelled the patta issued in favour of the petitioners and issued patta in favour of the third and fourth respondents herein. Therefore, it is clear



violation of principles of natural justice. He further submitted that the respondents 3 and 4 filed application before the first respondent on the ground that while issuance of UDR patta, there was error and sought for issuance of patta in their favour. When there is an error while issuance of UDR patta, it can be corrected only by the District Revenue Officer as per GO.Ms.No.385 Revenue Department dated 17.08.2004. Therefore, the first respondent has no power or authority to consider the application for cancellation of patta issued in favour of the petitioners.

5. Per contra, the learned counsel for the third and fourth respondents submitted that on the strength of the patta issued in their favour, they sold out the land in favour of one, Selvarajendran by the registered sale deed. In fact, the said sale deed was challenged by the petitioners in OS.No.211 of 2013 on the file of the District Munsif Court, Ponneri and it is pending for adjudication. Therefore, if they succeeds in the civil court, they are entitled for patta.

6. The learned Government Advocate submitted that the second respondent conducted detailed enquiry and recorded the submission of the petitioners and the respondents 3 and 4 herein and submitted detailed report. On the strength of the report, the first respondent conducted enquiry and passed orders. Therefore the petitioners were given opportunity of hearing and prayed for dismissal of the writ petition.

7. Heard, Mr.A.E.Ravi Chandran, the learned counsel for the petitioners, Mr.M.R.Gokul Krishnan, Government Advocate appearing for the respondents 1 & 2, and Mr.R.Kamaraj, the learned counsel for the respondents 3 & 4.

8. According to the deceased first petitioner, his great grand father purchased the subject property and after demise of his forefathers, he succeeded the subject property and thereafter he settled the property in favour of the second petitioner by the settlement deed dated 26.11.2012. On the strength of the same, the second respondent was issued patta in patta No.2967. However, the third and fourth respondents herein filed petition before the first respondent to cancel the patta. Thereafter, the first respondent on receipt of the report from the second respondent, passed the impugned order. Therefore, admittedly the petitioners were not served with notice and they were not enquired by the first respondent before passing the impugned order. That apart, on the strength of the patta issued in favour of third and fourth respondents herein, they executed sale deed in favour of one, Selvarajendran. The petitioner challenged the sale deed in O.S.No.211 of 2013 on the file of the District Munsif Court, Ponneri and it is pending. However,



the first respondent failed to give opportunity of hearing to the petitioners and it violates the principles of natural justice. On the said ground alone, the impugned order cannot be sustained and it is liable to be set aside.

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9. Accordingly, the impugned order passed by the first respondent in Na.Ka.1414/2013/A1 dated 05.04.2013 is set aside and the writ petition is allowed. The matter is remanded back to the first respondent for conducting fresh enquiry on the application filed by the third and fourth respondents herein subject to the result of the suit filed in OS.No.211 of 2013 on the file of the District Munsif Court, Ponneri. Consequently, connected miscellaneous petitions are closed. No order as to costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Revenue Divisional Officer,  
Ponneri,  
Tiruvallur District.
2. The Tahsildar,  
Ponneri,  
Tiruvallur District.

+1cc to Mr.R.Kamaraj, Advocate, S.R.No.53597

W.P.NO.26017 OF 2013

AD(CO)  
PBS/21/12/2021