



W.P.No.2401 of 2013

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M. DHANDAPANI, J.

This petition has been listed under the caption “For being mentioned” at the instance of the petitioner.

2. When the matter is taken up for hearing, the learned counsel for the petitioner submitted that, in para 4 of the order dated 18.10.2022, **“Section 22 of the Pondicherry Settlement Act, 1976”** has been inadvertently, mentioned as **“Section 13 of the Tamil Nadu Patta Passbook Act, 1983”**. The said portion of the order may be corrected and fresh order copies may be issued.

3. In view of the above submission, para 4 of the order dated 18.10.2022 shall stand modified as under:

*“4.Though very many grounds have been raised by the learned counsel on either side at the time of arguments, however, when this Court expressed its opinion that, as against the order passed by the 3rd respondent, there is an effective appeal remedy available before the Revisional Authority, in terms of **Section 22 of the Pondicherry Settlement Act, 1983**, and without exhausting the said appeal remedy, straight away approaching this*



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Court by way of filing this Writ petition, challenging the order passed by the 3rd respondent is not sustainable, the learned counsel for the petitioners fairly restricted the prayer and sought permission of this Court, to file appropriate Appeal before the Revisional authority as against the order dated 06.02.1997 passed by the 3rd respondent. The learned counsel appearing for the respective respondents have not expressed any serious objection for the limited relief sought for by the petitioner.

5. In view of the above, Registry is directed to make necessary modifications in the aforesaid order and issue fresh order copy to the parties.

23.03.2023

NHS

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.10.2022

CORAM:

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.2401 of 2013
and W.M.P.No.2 of 2013
and W.M.P.No. 1964 of 2019

1.P.Rajambal
2.P.Subramanian
3.Lakshmi
4.K.Pandiarajan
5.Karthigai
6.R.Anbukarasi
7.R.Cadiresan
8.R.Chitra

... Petitioners

Vs

1.Union of India
U.T.of Pondicherry,
Represented by the Secretary to Government,
Department of Revenue and Disaster Management,
Govt. of Puducherry, Puducherry.

2.The District Collector,
Puducherry-605 013.

3.The Director of Survey & Land Records,
Saram, Puducherry – 605 013.

4.The Puducherry Municipality,
Represented by its Commissioner, Puducherry – 605 001.



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5. Selvaraj
(former Dy. Director of Land and Survey Records)
S/O.P.Subramanian,
Old D.No.7/26 & New D.No.13, Kamaraj Salai,
Venkata Nagar Post, Puducherry – 605 011.

6.P.Subramanian (died)
(represented by his son, legal heir 5th respondent vide order
dated 18.10.2022 in W.M.P.No.27218 of 2022)

7.V.Baghavan

8.K.Mannankatti

9.Kathavarayan (died)

10.Renuka

11.K.Murugaiyan

12.K.Keethika

... Respondents

(R10 to R12 impleaded by this Court vide order
in 18.10.2022 in W.M.P.No.27215 of 2022)

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the records, relating to the Order No.3402/STI/DOS/.91 dated 06.02.1997 on the file of the 3rd respondent and the order dated 04.10.2012 made in Settlement Appeal No.6 of 2010 on the file of the 2nd respondent and quash the same and consequently direct the 3rd respondent to grant joint patta for the property bearing T.S.No.1,2,3,4 & 5 (R.S.No.255/1,2,3,4 & 5) (Cadastre Nos.104pt. & 105pt.) and situated at Govindasalai, Pudupalayam Revenue Village, Puducherry and measuring 34 Kushies & 12/6 Veesams, including the Savuthi Vinayagar Temple constructed in a portion of the same jointly in the name of the petitioners in respect of their respective undivided shares.



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For Petitioners : Mr.T.P.Manoharan
Senior Counsel
for Mr.K.P.Jotheeswaran

For Respondents : Mr.J.Kumaran for RR1 to 3
Addl. Govt. Pleader (Pondyicherry)
: Ms.S.Rathi for R4
: M/s.Stalwart Law Firm for RR5 & 6
: Mr.I.Abrar Md Abdullah for RR7 & 9
: Mr.S.Subramanian for R8

ORDER

This Writ Petition has been filed to issue Certiorarified Mandamus, to call for the records, relating to the Order No.3402/STI/DOS/.91 dated 06.02.1997 on the file of the 3rd respondent and the order dated 04.10.2012 made in Settlement Appeal No.6 of 2010 on the file of the 2nd respondent and quash the same and consequently direct the 3rd respondent to grant joint patta for the property bearing T.S.No.1,2,3,4 & 5 (R.S.No.255/1,2,3,4 &5) (Cadastre Nos.104pt. & 105pt.) and situated at Govindasalai, Pudupalayam Revenue Village, Puducherry and measuring 34 Kushies & 12/6 Veesams, including the Savuthi Vinayagar Temple constructed in a portion of the same jointly inn the name of the petitioners in respect of their respective undivided shares.



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2.It is the case of the petitioners that the property in T.S.No.1,2,3,4 and 5 in Govindasalai, Pudupalayam Revenue Village along with Savithi Vinayagar Temple was constructed by their ancestor and the said property, has, all along, been in possession and enjoyment of the petitioner. It is the further case of the petitioners that the property had devolved upon the respective legal heirs and it was in the continuous possession of the predecessors of the petitioners and that the patta was also issued in the name of the petitioners. It is the further case of the petitioners that certain suits were also filed before the Civil Court for division of the shares in the name of the respective plaintiffs therein, which was also decreed as prayed for. However, respondents 5, 8 and 9 through a petition to the 3rd respondent dated 16.10.1996, had claimed the land in which the temple stands to be a 'Government Poramboke' in which certain orders were passed against which the petitioner filed W.P.No.5596 of 1997 and the same was dismissed and the appeal preferred against the same was disposed of. In such circumstances, without appreciating the order in the appeal, the present impugned order has been passed by the 2nd respondent. Challenging which the present petition has been filed.



3.Heard learned counsel appearing on either side and perused the materials available on record.

4.Though very many grounds have been raised by the learned counsel on either side at the time of arguments, however, when this Court expressed its opinion that, as against the order passed by the 3rd respondent, there is an effective appeal remedy available before the Revisional Authority, in terms of Section 13 of the Tamil Nadu Patta Passbook Act, 1983, and without exhausting the said appeal remedy, straight away approaching this Court by way of filing this Writ petition, challenging the order passed by the 3rd respondent is not sustainable, the learned counsel for the petitioners fairly restricted the prayer and sought permission of this Court, to file appropriate Appeal before the Revisional authority as against the order dated 06.02.1997 passed by the 3rd respondent. The learned counsel appearing for the respective respondents have not expressed any serious objection for the limited relief sought for by the petitioner.



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5. In view of the aforesaid stand taken by the learned counsel for the petitioners, this Court, without interfering with the order under challenge, grants liberty to the petitioners to file appropriate Revision before the Revisional authority within a period of four weeks from the date of receipt of a copy of this order. On receipt of such appeal, the Revisional Authority is directed to consider the same on merits and in accordance with law and pass appropriate orders within a period of eight weeks thereafter, after affording an opportunity of personal hearing to the petitioner and the private respondents, without being influenced by any of the observations made in the impugned order dated 06.02.1997 passed by the 3rd respondent.

6. Accordingly, this Writ petition is disposed of. No costs. Consequently, connected Miscellaneous petition is closed.

18.10.2022

Index : Yes/No
Speaking Order : Yes/No

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- 1.Union of India
U.T.of Pondicherry,
Represented by the Secretary to Government,
Department of Revenue and Disaster Management,
Govt. of Puducherry, Puducherry.
- 2.The District Collector,
Puducherry-605 013.
- 3.The Director of Survey & Land Records,
Saram, Puducherry – 605 013.
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Represented by its Commissioner, Puducherry – 605 001.



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18.10.2022