



W.P.No.30123 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.30123 of 2022
and W.M.P.No.29558 of 2022

M.Srinivasan

... Petitioner

Vs.

1. The Tahsildar,
Police Station Road,
Uthangarai,
Krishnagiri District – 635 207.

2.The Zonal Deputy Tahsildar,
Police Station Road,
Uthangarai,
Krishnagiri District – 635 207.

3.The Assistant Commissioner of Land Reforms,
Erode.

4.Pavalakodi

5.M.Ranjani

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the impugned order in P.Mu/3732/2022/A3 dated 04.11.2022 passed by the 1st respondent and quash the same.



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For Petitioner : Mr.G.Mutharasu

For Respondents : Mr.T.K.Saravanan
Government Advocate

ORDER

The petitioner has filed this writ petition challenging the order passed by the 1st respondent in P.Mu/3732/2022/A3 dated 04.11.2022 and quash the same.

2.The case of the petitioner is that the property situated at Andiyur Village, Adniyur Village (P/O), Uthangarai (T/K), Krishnagiri District, bearing Patta No.324 in Survey No.42/2E, measuring to an total extent of 0.42.0 Hectare, originally belongs to his ancestors and after their demise, the said property devolved upon the petitioner and he was in possession and enjoyment of the property and the same was confirmed by the proceedings of the 2nd respondent in MM2148 A-3, dated 15.03.1993, based on which the petitioner got his patta in Patta No.324 on 01.09.2008 and other Revenue Records were mutated in the name of the petitioner. The petitioner had paid property tax to the said property from 2008 – 2020. While that



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being so, the petitioner executed a Sale Deed in favour of the 5th respondent, who is the daughter-in-law to the petitioner vide Doc.No.5757 of 2020 on the file of the Sub-Registrar, Uthangarai and patta was also transferred in favour of the 5th respondent. During the year, 2008, the 4th respondent's name was wrongly entered in UDR Register. On coming to know about the same, the petitioner requested the Revenue authorities to carry out necessary correction, based on which the Revenue Authority had conducted a detailed enquiry and carried out correction vide proceedings in RR.No.1539/1416 by stating “*Manu Matram*” and included the name of the petitioner. On 26.05.2022, the petitioner received a notice, asking him to attend the enquiry on 27.05.2022, with all relevant documents. Thereafter, the petitioner appeared and submitted all the relevant documents to the 1st respondent, but the 1st respondent failed to accept the same and mechanically passed the impugned order No. P.Mu/3732/2022/A3 dated 04.11.2022, after considerable lapse of time. It is pertinent to note that before passing the said impugned order the 1st respondent conducted on spot inspection and has taken statement from the adjacent land owners to show that the petitioner was in possession of the said property. Even without considering the same, the 1st respondent had passed the impugned order on 04.11.2022. Hence, the



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petitioner has filed this present Writ Petition.

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3. The learned counsel for the petitioner submits that the petitioner is the owner of the property, in respect of Survey No.42/2E, measuring to an total extent of 0.42.0 Hectare, situated at Andiyur Village, Adniyur Village (P/O), Uthangarai (T/K), Krishnagiri District and the said possession was recognised by the Revenue Officials and thereafter, the Patta No.324 was issued in favour of the petitioner. In the meanwhile, one Pavalakodi, claim that she obtained the assignment order in terms of Land Reforms Act, in the year 1992 by the Assistant Commissioner of Land Reforms. Based on which, she made an application for cancellation of patta issued in name of the petitioner and issue a patta in her name to the Tahsildar/ 1st respondent. However, no order was passed. Hence, the said Pavalakodi/ 4th respondent filed a Writ Petition before this Court in W.PNo.25536 of 2021, and this Court vide order dated 30.11.2021 issued order to the 1st respondent therein to pass appropriate order after affording opportunity to the petitioner as well as the 4th respondent and thereafter, the present impugned order No. P.Mu/3732/2022/A3 dated 04.11.2022 was passed cancelling the patta



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issued in name of the petitioner. Challenging the same, the present Writ Petition is filed.

4.The learned counsel appearing for the petitioner further submits that though the petitioner is impleaded as a party in the earlier Writ Petition filed by the 4th respondent in W.PNo.25536 of 2021, however, without issuing notice to the petitioner, this Court passed an order. Further, the petitioner filed several documents to substantiate that he is the owner of the property including the Revenue Inspector Report, which clearly states that the petitioner is in enjoyment and possession of the property. However, the same was not considered and further, once the assignment order is issued in name of the 4th respondent in terms of Section 107 of the Land Reforms Act, the petitioner has no right to a file civil suit against the 4th respondent, the civil suit is barred and all those things are not considered by the 1st respondent and mechanically passed the impugned order in favour of the 4th respondent which is not a sustainable and accordingly, he prayed for allowing the Writ Petition.



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5. Per contra, the learned Government Advocate appearing for the respondent submitted that once the patta issued in favour of the petitioner in terms of Section 3 of the Act, it has to be cancelled or modified in terms of Section 10 of the Act. The 4th respondent made an application for cancellation of the patta in terms of Section 10 of the Act before the Tahsildar and the same was not considered. Based on the direction issued by this Court, the said application was considered and the present impugned order was passed. As against the said impugned order, there is an effective appeal remedy available before the Revenue Divisional Officer and without exhausting the appeal remedy, filing the this Writ Petition is not sustainable one.

6. Heard the learned counsel appearing for the petitioner and learned Government Advocate appearing for the respondents 1 to 3.

7. As against the order passed by the Tahsildar, in terms of Section 10 of the Tamil Nadu Patta and Pass Book Act, 1983, there is an effective remedy available before the Revenue Divisional Officer and without exhausting the alternative remedy available to the petitioner, filing the



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present writ petition is not sustainable one. Further, rendering any opinion on the factual aspects, which will adversely affect the interest of the 5th respondent as well as the 4th respondent. Hence, the prayer sought for in this Writ Petition cannot be granted. In view of the above, this Writ Petition is dismissed. However, liberty is granted to the petitioner to file appropriate application before the Revenue Divisional Officer in terms of Section 12 of the Tamil Nadu Patta and Pass Book Act, 1983, within a period of two weeks from the date of receipt of a copy of this order. On filing of such appeal, the Revenue Divisional Officer is directed to pass appropriate order after providing an opportunity to the petitioner as well as the 4th respondent within a period of twelve weeks, thereafter.

8.This Writ Petition is accordingly is dismissed. No costs.
Consequently, connected miscellaneous petition is dismissed.

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Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No

To

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3. The Assistant Commissioner of Land Reforms,
Erode.

Note: Registry is directed to return the original impugned order to the petitioner.

M.DHANDAPANI,J.

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