



W.P.(MD)No.626 of 2009

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 19.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.626 of 2009

1. Karuppayee
2. Lakshmi
3. Muthanan
Petitioners are represented
through their Power Agent
K.Baluchami

... Petitioners

versus

1. The District Revenue Officer,
Sivaganga District,
Sivaganga.
2. The Revenue Divisional Officer,
Sivaganga District,
Sivaganga.
3. The Tahsildar,
Settlement Officer,
Patta Pass Book Settlement Office No.4,
Sivaganga.
4. M.Vellaichami (died)



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5. Kalanchiyam @ Karuppayee

6. Lakshmi

7. Ayyavu

8. Pandi

9. Sonai

10. Murugesan @ Murugan

11. Rajalakshmi @ Rajeswari

12. Pappa

13. Panchavarnam

(R5 to R13 are impleaded vide
order dated 19.04.2022 in
W.M.P.(MD)No.7691 of 2019)

... Respondents

Writ Petition filed under Article 226 of the Constitution of India,
seeking for the issuance of Writ of Certiorari, to call for the records of
the order of the first respondent in Pa.Mu.B1/14457/2005 dated
22.10.2007 confirming the order of the 2nd respondent in Mu.Mu.(B1)
1242/2000 dated 10.03.2005 and quash the same.

For Petitioners : Mr.T.Lajapathi Roy
For R1 to R3 : Mr.A.Baskaran,
Additional Government Pleader
For R5 to R13 : Mr.C.M.Arumugam



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ORDER

This writ petition is filed as against the order dated 22.10.2007 passed by the first respondent/District Revenue Officer, Sivagangai, on the revision petition filed by the petitioners. The first respondent/District Revenue Officer, Sivagangai, by the order impugned in this writ petition, confirmed the order of the Revenue Divisional Officer, cancelling the patta, which was granted in favour of the petitioners and passed an order restoring the patta in the name of the fourth respondent.

2. The leaned counsel for the petitioners submits that the fourth respondent's father one Mu.Muthiah, by taking advantage of the similarity in the name of one Pesa Muthiah, who is the predecessors of the petitioners, obtained patta during UDR Scheme. Since the petitioners agitated the same, the fourth respondent filed a suit in O.S.No.102 of 1987, before the District Munsif Court, Sivagangai, seeking declaration and permanent injunction. The trial Court, after



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appreciating the oral and documentary evidence, dismissed the suit, by Judgment and Decree dated 07.02.1991. Aggrieved over the same, the fourth respondent filed an appeal in A.S.No.1 of 1994 before the Sub Court, Sivagangai, which was also dismissed by Judgment and Decree dated 28.09.1994. Thereafter, the petitioners applied for change of patta to the Tahsildar as well as before the Revenue Divisional Officer. The Tahsildar, Sivagangai Taluk, passed an order to issue patta in the name of the petitioners. But, the Revenue Divisional Officer, Sivagangai, set aside the order stating that when the application for change of patta was pending before him, the petitioners, by suppressing the same, obtained patta from the Tahsildar. Aggrieved over the same, the petitioners preferred a revision petition before the first respondent/District Revenue Officer, Sivagangai. The District Revenue Officer, Sivagangai, passed an order confirming the order of the Revenue Divisional Officer, Sivagangai and restored the patta in favour of the fourth respondent. Aggrieved by the same, the present writ petition has been filed.



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3. The learned counsel for the petitioners submits that the fourth respondent's father, by taking advantage of the similarity of name, obtained patta in his name, during UDR Scheme, when the property was originally belonged to one Pesa Muthiah. He further submits that when the fourth respondent lost his case before the competent Civil Courts, the revenue authorities are not supposed to substitute the order of the Civil Courts by granting patta in the name of the fourth respondent.

4. The learned counsel appearing for the respondents 5 to 13 submits that it is true that the fourth respondent (now deceased) filed a suit in O.S.No. 102 of 1987, before the District Munsif Court, Sivagangai, for declaration and injunction with regard to the suit property, however, he lost the suit. The Revenue Divisional Officer and District Revenue Officer, Sivagangai, by considering the revenue records and the settlement register, passed the order in favour of the



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fourth respondent. He further submits that the petitioners are strangers and they are no way connected with the suit property. Though the fourth respondent lost his case before the competent Civil Courts, the petitioners cannot take advantage of the dismissal Judgment of the Civil Suit and Appeal that the fourth respondent is not entitled for patta and it does not mean that the suit property is belonging to the defendants/petitioners.

5. This Court considered the rival submissions made.

6. Admittedly, the first respondent/District Revenue Officer, Sivagangai, by the order impugned in this writ petition, confirmed the order of the second respondent/Revenue Divisional Officer, Sivagangai. The second respondent/Revenue Divisional Officer, Sivagangai, cancelled the patta issued in favour of the petitioners and restored the patta in the name of fourth respondent. The fourth respondent already filed a suit in O.S.No.102 of 1987 before the



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District Munsif Court, Sivagangai, for declaration and injunction, and the same was dismissed by Judgment and Decree dated 07.02.1991.

The appeal filed by the fourth respondent in A.S.No.1 of 1994 was also dismissed by the Appellate Court, vide Judgment and Decree dated 28.09.1994. In such circumstances, on the application filed by the petitioners, the Tahsildar granted patta in favour of the writ petitioners, but the same was cancelled by the Revenue Divisional Officer and District Revenue Officer, Sivagangai. In Civil Law, when there is a dispute between the rival parties upon the title to the property, the competent forum would be only the Civil Court.

7. A Division Bench of this Court in ***Kuppuswami Nainar vs. the District Revenue Officer and others***, reported in ***1995 (1) MLJ 426*** also held as follows:

“3. No provision is brought to our notice in the Standing Orders of the Board of Revenue taking away the jurisdiction of the civil court to adjudicate upon the question of title relating to immovable



property. Revenue Officers in a patta proceedings may express their views on the question of title, but such expression of opinion or decision is not conclusive and it is only intended to support their decision for granting patta. Ultimately, it is the civil court which has to adjudicate the question as to whether the person claiming patta is the title-holder of the land. Even if the revenue authorities decide the question of title, that will not in any way affect the jurisdiction of the civil court, which has to decide the question without reference to the decision of the revenue authorities.

4. Now the question for consideration is, having regard to the fact that the District Revenue Officer has expressed his opinion on the question of title whether the order under question should be interfered with. It may be pointed out here that in a petition under Article 226 of the Constitution the question of title regarding immovable property cannot properly be gone into, because a mass of evidence may be required for adjudicating the question of title. Even if we are to interfere with the order under appeal, it is the other party, who has to



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go to a civil court and establish title. As far as the exercise of jurisdiction under Article 226 of the Constitution is concerned, it does not matter to it whether 'A' party goes to civil court or 'B' party. Therefore, we are of the view that the question of title has to be decided by the civil court, without reference to the order under question. Hence, we decline to interfere with the order challenged in the writ petition. However, we make it clear that in the event a suit for declaration of title and for appropriate consequential relief is filed, the civil court shall decide such a suit, without reference to the findings recorded by respondents 1 and 2 in the impugned orders, but only on the basis of the pleadings of the parties and evidence adduced by them before it. We also make it clear that any opinion expressed by the learned single Judge, contrary to what we have stated above, shall also stand modified accordingly. With these observations, the writ appeal is dismissed.”

8. In view of the above, the orders of the second respondent/Revenue Divisional Officer, Sivagangai, dated 10.03.2005



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and the first respondent/District Revenue Officer, Sivagangai, dated 22.10.2007 shall be kept in abeyance. The parties are at liberty to work out their remedy before the competent Civil Court by establishing their right before the Civil Court.

9. Accordingly, the writ petition is disposed of. No costs.

19.04.2022

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Index : Yes / No.

Internet: Yes / No.

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B.PUGALENDHI, J.

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