



W.P.(MD)No.4139 of 2011

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 11.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.4139 of 2011

Sri Rangalatchumi Educational Trust,
Rep. by its Chairperson
Mrs.R.S.K.Dhanalakshmi
PSNA College of Engineering
and Technology,
Silvarpatti,
Dindigul District.

... Petitioner

versus

1. The District Revenue Officer,
Dindigul District,
Dindigul.
2. The Thasildar,
Dindigul Taluk,
Dindigul.
3. The Thasildar,
Athur Taluk,
Athur,
Dindigul District.
4. Rajendri



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5. Navaneetham (died)

6. M.Dayamani

7. J.Davidraj

8. R.Manoharan

(R8 is impleaded vide order
dated 10.03.2020 in

WMP(MD)No.225 of 2017
in W.P.(MD)No.4139 of 2011)

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records relating to the proceedings in Na.Ka.No.51666/B4 dated 04.02.2011 on the file of the District Revenue Officer, Dindigul District, Dindigul, the first respondent herein, quash the same and direct the respondents 2 and 3 to carry out changes in the patta register for S.No.791/2, Silvarpatti Village, Athur Taluk, Dindigul District for 3.00 Acres.

For Petitioner : Mr.M.P.Senthil

For R1 to R3 : Mr.D.Gandhiraj,
Special Government Pleader

For R5 : Died

For R4, R6 & R7 : Mr.B.Jameel Arasu

For R8 : No appearance



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ORDER

This writ petition is filed as against the order of the first respondent/the District Revenue Officer, Dindigul, dated 04.02.2011, in and by which, the first respondent/the District Revenue Officer, Dindigul, directed for issuance of joint patta in favour of the respondent Nos.4 to 7, by cancelling the patta issued in favour of the petitioner.

2. The petitioner claims to have purchased a vacant land to an extent of 3.88 Acres comprised in S.No.748/3, Silvarpatti Village, Athur Taluk, Dindigul District, under Sale Deed dated 15.09.1984 and also purchased another property to an extent of 3 Acres out of 3.16 Acres in S.No.791, Silvarpatti Village, Athur Taluk, Dindigul District, under Sale Deed dated 20.02.1985. Subsequently, patta was also transferred in the name of the petitioner. The property in S.No.791 was sub divided as S.No.791/1 to an extent of 0.16 Acres and S.No.791/2 to



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an extent of 3 Acres.

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3. The respondents 4 to 7 filed a petition dated 26.05.2008 to the first respondent, alleging that the land in S.No.748/3 with an extent of 3.87 Acres and the land in S.No.791 with an extent of 3.16 Acres originally belonged to their mother J.Rajammal, but, the patta was wrongly issued in favour of the petitioner in respect of those lands and therefore, patta has to be issued in favour of them. Since the said petition was not considered, the fourth respondent filed a writ petition in W.P.(MD)No.9964 of 2008 seeking a direction to the first respondent to consider her petition dated 26.05.2008, within the time limit stipulated by this Court. This Court, by order dated 07.11.2008, disposed of the writ petition with a direction to the second respondent to consider the representation of the petitioner dated 26.05.2008 on merits after giving due opportunity of being heard to the petitioner within a period of two months from the date of receipt of a copy of the order.



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4. Pursuant to the order of this Court, a notice was issued to the petitioner requiring him to appear for enquiry on 16.09.2009. The petitioner also attended the enquiry and submitted his explanation, claiming that after the purchase of the properties, he has become the absolute owner of the properties.

5. In respect of the property in S.No.748/3 to an extent of 3.88 acres, the first respondent, by order dated 04.02.2011, rejected the claim of the respondents 4 to 7 seeking issuance of patta in their names, based on the decree passed in O.S.No.1534 of 1984 in favour of one Ponnusamy Mudaliar, who is the vendor of the petitioner. However, in respect of the property in S.Nos.791/1 and 791/2, the first respondent, by order dated 04.02.2011, ordered for issuance of joint patta in favour of respondents 4 to 7. Aggrieved by the same, the petitioner filed this writ petition.



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5. The learned counsel appearing for the petitioner submits that the property in Survey No.748/3 originally belonged to one Ponnuswamy Mudaliar, who got title by way of a decree in a specific performance suit in O.S.No.1534 of 1984, filed against the respondents 4 to 7. Based on the said decree, he filed an Execution petition in E.P.No.70 of 1999 in O.S.No.1534 of 1984, in turn, the respondents 4 to 7 filed objection petition in E.A.No.16 of 2007. Thereafter, the matter was settled and a compromise memo was filed on 14.11.2008 before the learned District Court at Dindigul. Therefore, the petitioner has become the absolute owner of the property.

6. The learned counsel for the petitioner further submits that the property in S.No.791 originally belonged to one Mr.Seeni Thevar, from whom, the petitioner purchased the property in S.No.791 to an extent of 3 acres out of 3.16 acres, under Sale Deed dated 20.02.1985, based on which, the petitioner derived the title over the property.



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7. The learned counsel appearing for the petitioner further submits that the first respondent based on the report of the Revenue Divisional Officer, passed the impugned order. The said report ought to have been furnished to the petitioner. However, the first respondent, without any enquiry and without furnishing the report of the Revenue Divisional Officer, passed the impugned order, which is illegally unsustainable. Therefore, the same is liable to be quashed.

8. The learned counsel appearing for respondent Nos.4, 6 and 7 submits that the petitioner has purchased the lands in S.No.791/2 from one Seenithevar, who had no valid title to the property. The land in S.No.791, Silvarpatti Village, Athur Taluk, Dindigul District, originally belonged to one Raman Mathari by virtue of sale deed dated 06.12.1951. Later, it was purchased by one Rajammal, mother of the respondent Nos.4, 6 and 7 under sale deed dated 29.01.1952. After her demise, the respondent Nos.4, 6 and 7 are in possession and enjoyment of the property. During the year 2008, while they were trying to sell



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the above land to settle the loan amount, they came to know that the patta was transferred in the name of the petitioner. Therefore, they made a representation dated 26.05.2008 to the first respondent requesting for change of patta in favour of them. Since the said representation was not considered by the first respondent, the respondents filed a writ petition before this Court seeking a direction for speedy disposal of his representation. The writ petition was disposed of the writ petition with a direction to the second respondent to consider the representation of the petitioner dated 26.05.2008 on merits after giving due opportunity of being heard to the petitioner within a period of two months. Pursuant to the direction of this Court, the first respondent directed the Revenue Divisional Officer conducted an enquiry. During the enquiry, it was found that by mistake, the vendor of the petitioner was included in the patta register. Based on the report by the Revenue Divisional Officer, the first respondent directed the Tahsildar, Dindigul, to issue joint patta in the name of respondents 4 to 7. Therefore, the impugned order cannot be said to be



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unsustainable.

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9. I have considered the submissions made by the learned counsel for the petitioner as well as the learned counsel appearing for respondent Nos.4 to 7.

10. The Patta Pass Book Scheme was introduced in order to ensure that all the pattadars that of the land owners get a patta pass book with the details of their holdings of land. For providing legal status to the Patta Pass Book, the Tamil Nadu Patta Pass Book Act, 1983, was enacted, authorizing the patta pass book for grant of loan from the financial institutions and credit agencies.

11. Under Section 5(1) of the Patta Pass Book Act, no document relating to transfer of any land by sale, gift, mortgage, exchange, settlement or otherwise shall be registered by the Registering Authority, unless the patta pass book relating to such land is produced



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before such Registering Authority.

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12. The Tahsildar, having jurisdiction over the area in which the land is situated, is the authority to issue a patta pass book to every land owner in respect of his land. Every owner of the agricultural land shall apply for a patta pass book under the Act in a prescribed format under Sub Section (1) of Section 3 of the Tamil Nadu Patta Pass Book Act. The Tahsildar, on the information obtained by him, by following the procedures as contemplated in the Act and after providing reasonable opportunity to the persons having interest in the land to make their representations either orally or in writing, shall determine as to whom the patta pass book is to be issued.

13. In the event of the Tahsildar being satisfied that a dispute concerning ownership of patta is already pending in a Court or issues are raised before him which impinge on personal laws or laws of succession and all the parties interested do not agree on the ownership



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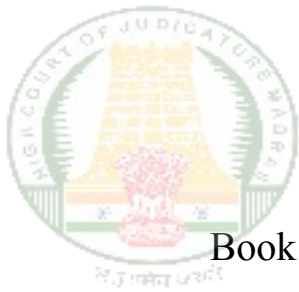
in writing, he shall direct the concerned parties to obtain a ruling on ownership from a competent Civil Court having jurisdiction as per Rule 4 (4) of the Tamil Nadu Patta Pass Book Rules 1987.

14. The proviso to Section 14 reads as follows:

“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”.

15. Considering the provision under Section 14 of the Patta Pass



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Book Act 1983 and the Tamil Nadu Patta Pass Book Rule 1987, the Hon'ble Apex Court in ***M/s.Edelweiss Asset Construction Company Limited vs. R.Perumalsamy and others***, reported in ***AIR 2020 SC 3688***, set aside an order passed by a District Revenue Officer under the Patta Pass Book Act and held as follows:

“19. Under the Tamil Nadu Patta Pass Book Act 1983 and the Tamil Nadu Patta Pass Book Rules 1987, the Tahsildar is not empowered to adjudicate upon a 'title dispute'. A combined reading of Section 14 and Rule 4(4) indicates that where there exists a dispute with respect to ownership of a land between parties with respect to a patta entry, the correct procedure to be adopted is to approach a civil Court having competent jurisdiction. The entry records will be updated on the basis of the decree of the civil court upon adjudication.

16. As per Section 10(1) of the Patta Pass Book Act, a person can claim for a modification of patta only under three circumstances,

1. by reason of the death of any person; or
2. by reason of the transfer of interest in the land; or



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3. by reason of any other subsequent change in circumstances.

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17. As per Section 10(3)(a) of the Act, the Tahsildar shall provide a reasonable opportunity to the parties concerned to make their representation either orally or in writing.

18. For obtaining such patta, an Applicant has to prima facie satisfy with the documents for any other information relating to the land to the Tahsildar for his determination and on such determination, the Tahsildar not only makes necessary entries in respect of the land concerned in the Register of Patta Pass Book maintained in the office of the Tahsildar, but also for the purpose of issuing Patta Pass Book to the owner or the person concerned. The entries in the Patta Pass Book shall be presumed to be true and correct until the contrary is proved or a new entry is lawfully substituted.

19. A Division Bench of this Court, in *T.R.Dinakaran vs. the*



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Revenue Divisional Officer, Aruppukottai and others reported in

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2001 (3) CTC 823 held as follows:

“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.

.....

By Section 5, in the event any modification is required on an application by any person, it can be made either by reason of the death of any person or by reason of transfer of interest in the land or by reason of any subsequent change in the circumstances. This section also does not empower the Tahsildar to cancel the patta already granted, as the power of the Tahsildar to modify the entries in the patta pass book is limited only in case of death of the person who was holding the patta pass book or by reason of the transfer of interest in the land or by



reason of any other subsequent change in the circumstances. In the event an application is made that the patta pass book has been wrongly issued in favour of any person and consequently, claiming title over the land entitling such person to grant of patta, that person can only file a suit for declaration that the entries made in the patta pass book should be cancelled and consequently for a mandatory injunction for grant of patta.”

20. Another Division Bench of this Court in ***Kuppuswami Nainar vs. the District Revenue Officer and others***, reported in **1995 (1) MLJ 426** 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



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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 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



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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.”

21. The Patta Pass Book Act provides a right of appeal under Section 12 of the Act before the Revenue Divisional Officer and a revision under Section 13 of the Act before the District Revenue Officer.

22. This Court under Article 226 of the Constitution of India,



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cannot go into the title of the parties and the same can be decided only by adducing evidence before the appropriate Civil Court and any opinion by this Court on the documents relied on by the parties would prejudice the interest of the parties before the Civil Court.

23. As stated above, the Revenue authorities are not competent to issue a patta in favour of the parties, where there is a dispute among two persons on the title of the property. But, in this case, the first respondent/the District Revenue Officer, Dindigul, based on the report of the Revenue Divisional Officer, Dindigul and the settlement deed registered in favour of one Rajammal, mother of respondents 4 to 7, ordered for issuance of joint patta in favour of respondent Nos.4 to 7 in respect of the land in Survey No.791 and cancelled the patta granted in favour of the petitioner.

24. In the light of the Judgment in the case of ***Kuppuswami Nainar*** (as cited supra), the person, who has applied to the District



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Revenue Officer for change of patta should be directed to approach the Civil Court to establish the title and for seeking the grant of patta after cancelling the patta granted in favour of the petitioner. On this ground, the order of the first respondent dated 04.02.2011 is liable to be set aside and accordingly, the same is set aside. The parties shall workout their remedy before the appropriate Civil Court in the manner known to law. Based on the civil Court order, a fresh application for grant of patta or cancellation of patta shall be filed before the competent authority. No costs.

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Index : Yes / No.

Internet: Yes / No.



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B.PUGALENDHI, J.

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To

1. The District Revenue Officer,
Dindigul District,
Dindigul.
2. The Thasildar,
Dindigul Taluk,
Dindigul.
3. The Thasildar,
Athur Taluk,
Athur,
Dindigul District.

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