



W.P(MD).No.12734 of 2013

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.12.2022

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.P(MD)No.12734 of 2013
and
M.P(MD) Nos.2 and 3 of 2013

1. P.Kannan
S/o. S.Pandi
2. P. Meenakshi
W/o. S.Pandi
3. P.Muthulakshmi
D/o. S.Pandi.
4. P.Malarkodi
D/o. S.Pandi

... Petitioners

Vs.

1. The District Revenue Officer,
Office of the District Revenue Officer,
Madurai District.
2. The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Madurai District.
3. The Tahsildar,
Office of the Tahsildar,
Madurai South Taluk,
Madurai District.



W.P(MD).No.12734 of 2013

4. K.Rajangam
5. K.Rajaram
6. V.Mani
7. M.Natarajan
8. V.Raja
9. V.Kannan

10. Murugan
11. Jeyalakshmi
12. Kasinathan
13. Eswari
14. Krishnaveni
15. Viswanathan

... Respondents

***(Respondents 10 to 15 are substituted
vide order of this Court, dated
15.12.2022 in W.M.P(MD) No.20595
of 2022 in W.P(MD) No.12734 of 2013)***

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the first respondent dated 28.06.2013 in Na.Ka.No.38341/2010/G2 and quash the same and consequently direct the respondents 1 to 3 to issue patta in favour of the petitioners in respect of the Survey No.7/6, of an extent of 90 cents and Survey No.17/1 of an extent of 1 Acre 64 Cents, Survey No.38/10 an extent of 14 cents and Survey No.59/12 an extent of 1 Acre 59 Cents at Thattanur Village, Madurai South Taluk, Madurai District.



W.P(MD).No.12734 of 2013

For Petitioners : Mr.C.Jeganathan
For R-1 to R-3 : Mrs. D.Farjana Ghoushia
Special Government Pleader
For R-11 to R-15 : Mr.G.Sakthi Rao

ORDER

The present Writ Petition has been filed challenging the order of the first respondent herein. The petitioners herein are claiming title to the property in dispute against the respondents 4 to 9 in this Writ Petition.

2. Heard Mr.C.Jeganathan, learned Counsel appearing for the petitioners, Mrs.D.Farjana Ghoushia, learned Special Government Pleader appearing for the respondents No.1 to 3 and Mr.G.Sakthi Rao, learned Counsel appearing for the respondents No.11 to 15.

3. Originally, the third respondent/ the Tahsildar, by his order dated 30.01.2008 had directed grant of patta in favour of the petitioners' father, against which, the respondents 4 to 9 had preferred an appeal to the second respondent herein and the second respondent, by an order, dated 03.05.2010 rejected the claim of the respondents 4 to 9. Being aggrieved against the



W.P(MD).No.12734 of 2013

same, they have preferred further revision before the first respondent. The first respondent, by his order, dated 28.06.2013 accepting the revision filed by the private respondents, had reversed the order passed by the respondents No.1 and 2. At the outset, the respondents 1 to 3 while disposing of the proceedings pending before them, had passed an order entering into the rival claims of the parties and decided the entitlement of their rights.

4. This, in my view, is contrary to the Rules framed under the Tamil Nadu Patta Pass Book Act, 1983. For better appreciation, the relevant Rule, viz., Rule 4 (4) is extracted hereunder:

4 (4). 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 in writing, he shall direct the concerned parties to obtain a ruling on ownership from a competent Civil Court having jurisdiction before changing the entries as already recorded and existing in the various revenue records.



W.P(MD).No.12734 of 2013

WEB COPY

5. A reading of the said Rule would envisage that if the Tahsildar is satisfied that the dispute concerning ownership of patta is already pending in a Court or that the issues are raised before him relates to personal laws or laws of succession and that if all the parties interested do not agree on the ownership of the title, then it is incumbent upon the authority to direct the concerned parties to approach the competent civil Court before changing the entries already recorded and existing in the various revenue records.

6. In the present case, the civil dispute is also pending before the District Munsif, Thirumangalam, in O.S.No.393 of 2010. Further, the parties to the proceedings have also not given in writing as to the ownership of particular person. When that being so, the revenue authorities do not have jurisdiction to entertain upon such dispute and decide to grant patta. The Honourable Apex Court has occasion to deal with the aforesaid Rule in the judgment reported *in 2021 (11 SCC) 98 (Edelweiss Asset Constructions Construction Company Limited Vs- R.Perumalswamy and others)* and held that the Revenue officials have exceeded the jurisdiction for investigation of title of the disputed lands and the relevant portions of the aforesaid judgment, are extracted hereunder:



WEB COPY



W.P(MD).No.12734 of 2013

“18. The Tamil Nadu Patta Pass Book Rules, 1987 provide for the procedure to be adopted to deal with enquiries with respect to the entries made in the Patta Pass Book. Rule 4 provides for the procedure on receipt of an application or information with respect to an entry in the Patta Pass Book. The relevant portion of Rule Provides thus:

“4. Procedure on receipt of application or information -

(1) On receipt of the application or information, the Tahsildar shall make an entry in the “Register of Applications Received” in the order of receipt in Form III. The Register shall be maintained village – wise.

(2) On the basis of the information furnished in the application and as available in the existing land records or obtained otherwise, the Tahsildar shall cause to be served or despatched, under certificate of posting, to the persons having interest on the land a notice in Form IV calling upon them to make representation either orally, or in writing at a specified place on a specified date which shall be not less than fifteen days and forty days later than the date of receipt of the application or



WEB COPY



W.P(MD).No.12734 of 2013

information.

(3) On the prescribed date, the Tahsildar shall conduct a summary enquiry. At the enquiry, on consideration of age, literacy and occupation, the Tahsildar may permit an authorised agent of the owner to appear on his behalf to supplement whatever the owner has to state orally or in writing. No legal practitioner in his professional capacity shall be allowed to represent any party at such an enquiry. There shall not be adjournment of the enquiry not more than twice and that adjournment shall be granted only on application made by the parties requesting for adjournment. Reasons for granting or refusing the adjournment shall be recorded by the Tahsildar in writing.

(4) 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 in writing, he shall direct the concerned parties to obtain order on the



W.P(MD).No.12734 of 2013

ownership from a competent Civil Court having jurisdiction before changing the entries as already recorded and existing in the various revenue records. (emphasis supplied)

In terms of Rule 4(4), the Tahsildar upon being satisfied that a dispute concerning the ownership of patta is already pending in a Court or any issue that is raised before him impinges on personal or laws of succession shall direct the parties concerned to obtain and “order of ownership” from a competent civil Court having jurisdiction and accordingly change the entries recorded in various revenue records.

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.



WEB COPY



W.P(MD).No.12734 of 2013

20. *In the present case, Government Order dated 17.08.2004 revoked the powers of rectification of defects in updating of registry cases conferred upon the Tahsildar by Government Order No.921 dated 15.08.2001. Instead, Government Order dated 17.08.2004 empowered the DRO to cure any defects occurring in the land registry after enquiry. In the present case, the first respondent by an application dated 07.09.2015 approached the DRO for change of patta in respect of the disputed lands. The DRO issued summons to the appellant to prove its legal ownership and possession. By an order dated 28.12.2015, the DRO solely relied on the report of the Revenue Divisional Officer and ordered deletion of the appellant's name from the land records and replaced it with the first respondent's name. The Revenue Officer had no jurisdiction to adjudicate upon title. A dispute with respect to the title of land is a mixed question of fact and law, which needs to be raised before a competent civil Court.*

21. *The narration of facts in the earlier part of the judgment makes it clear that on 26.02.1964, the State of Tamil Nadu executed a deed of assignment in favour of WSIL. The deed of assignment specifically records that the lands vested in the State of Tamil Nadu free of all encumbrances and were allotted to WSIL. The entire case*



W.P(MD).No.12734 of 2013

of the first respondent, was founded on an alleged sale deed of 09.10.1929, under which his father acquired the land and an alleged oral lease, by which the land was leased in favour of WSIL in 1963. Neither the sale deed nor the terms of the alleged oral lease have been produced in the course of the proceedings. Once the lands were acquired by the State of Tamil Nadu, any pre-existing claim of the first respondent would stand extinguished. The purpose of the Government Order dated 17.08.2004, is to enable the DRO to rectify the defects in the land registry. The DRO exceeded his jurisdiction by engaging in an exercise of investigating the title to the disputed land and substituting the first respondent with the appellant in the land records. The learned Single Judge was correct in holding that the DRO in the guise of acting in accordance with the said Government order, wrongly adjudicated upon the question of title which was beyond jurisdiction”.

7. In the present case also, there is a serious dispute between the petitioners and the respondents 4 to 9 regarding the ownership of the property. Therefore, the revenue authorities ought not to have entered into the said dispute and decided the title of ownership which is required to be done only by the competent Civil Court.



W.P(MD).No.12734 of 2013

WEB COPY

8. In view of the above said findings, the orders passed by the authorities viz., respondents No.1 to 3 are directed to be kept in abeyance. Neither the petitioner and the respondents 4 to 9 shall rely upon any observation or finding made in the said orders of the revenue authorities and after the disposal of the suit in O.S.No.393 of 2010 pending on the file of the District Munsif Court, Thirumangalam, shall approach the appropriate authority for grant of patta in favour of the party succeeding therein.

9. On the above said terms, this Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

15.12.2022

2/2

Index : Yes / No
Internet : Yes / No
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W.P(MD).No.12734 of 2013

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WEB COPY



W.P(MD).No.12734 of 2013

K.KUMARESH BABU, J.

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Order made in
W.P(MD)No.12734 of 2013

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(2/2)