



W.P.(MD).No.9243 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 25.07.2022

ORDER PRONOUNCED ON : 05 .09.2022

**CORAM:
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD).No.9243 of 2013
and MP(MD).Nos.2 and 3 of 2013**

1.A.Subburathinam (died)

2.M.Rajendran

3.S.Selvi

4.S.Mariappan

5.S.DeivanaiPetitioners

(Petitioners 3 to 5 are impleaded as Legal heirs of the deceased first petitioner vide order dated 14.11.2019)

Vs

1.The Revenue Divisional Officer
Tiruchirappalli

2.The Tahsildar
Tiruvarampur Taluk
Tiruchirappalli District

3.N.Sakthivel

4.N.Manoharan

5.V.Murugan



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6.Raghavendran

7.Helan Mary

8.P.Gnanasoundari

9.P.Selvamary

10.S.Pavitra

11.N.Mahalakshmi

12.G.Geetha

....Respondents

(Respondents 8 to 12 are impleaded vide order dated 14.11.2019)

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Ceritorari, calling for the records of the impugned order of the first respondent in N.K.No.A3/4661/2012 dated 17.04.2013 and quash the same.

For Petitioner	: Mr.R.Sundar Srinivasan
For R1 & R2	: Mr.D.Sasikumar Additional Government Pleader
For R3 to R6	: No Appearance
For R7 to R12	: Mr.T.Lajapathi Roy

ORDER

The present writ petition has been filed challenging an order passed by the first respondent herein under which Patta issued in favour of the writ petitioners was cancelled and a direction was issued for initiation of criminal



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action as against the petitioners and others for creating forged documents for getting Patta.

2. According to the petitioners, Survey No.288 was originally having a total extent of 38.20 acres. The said survey number was subdivided into Survey No.288/1 having an extent of 5.64 acres and 288/2 having an extent of 32.56 acres. For both the survey numbers, a patta was issued in Patta No. 299 in favour of 34 persons. Thereafter, the said joint pattadhars have conveyed an extent of 14.40 acres to the Government for Adi Dravidar Natham. After the said conveyance, Survey No.288/2 was subdivided into Survey No.288/2A having an extent of 14.40 acres (conveyed to Government) and Survey No.288/2B having an extent of 18.16 acres. For the said Survey No.288/2B, a joint patta was issued in favour of 34 persons in Patta No.1212.

3. The petitioners had further contended that the joint Pattadhars have divided their lands among themselves and in order to protect their possession, they had put a compound wall. However, the private respondents herein attempted to remove the said compound wall. When they failed in their attempt, the respondents 2 to 4 had approached the first respondent herein who has issued a notice on 19.07.2012. As per the said notice, the petitioners



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and the private respondents were called to appear for an enquiry relating to an alleged forged power deed said to have been executed by the second petitioner in favour of the first petitioner.

4.The petitioners had further contended that the said notice was challenged before this Court in W.P.No.6122 of 2013 and an order of interim stay was granted in M.P.No.2 of 2013 on 16.04.2013. Though the interim order was communicated to the first respondent on 17.04.2013, the first respondent had proceeded to pass the impugned order on 17.04.2013 cancelling the joint Patta which was granted by way of proceedings dated 13.01.2010. Challenging the said order, the present writ petition has been filed.

5.The learned counsel for the petitioners had contended that the respondents 2 to 4 are claiming that the property originally belonged to one A.G.Apparaj and he is said to have executed a power deed in favour of one Ganesan. The said Ganesan had created a lay out and has executed several sale deeds between 1987 to 1990. The said Ganesan is said to have created a lay out in 12.10 acres in Survey No.288/2. According to the learned counsel for the petitioners, neither A.G.Apparaj nor his power agent have any right title or possession over Survey No.288/2. The said documents were created



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fraudulently to grab the property of the petitioners. The petitioners have not created any forged document as alleged in the notice dated 19.07.2012, but it is otherwise.

6.The learned counsel for the petitioners had further contended that a copy of the complaint lodged by the respondents 2 to 4 was not served upon him, despite a request made in writing. However, the petitioners have chosen to file their objections to the alleged complaint

7.The learned counsel for the petitioners had further contended that the first respondent is only an appellate authority and he cannot entertain an application from the respondents 2 to 4 for cancellation of patta. The respondents 2 to 4 ought to have approached only the second respondent for any alteration in the patta. Hence, the proceedings initiated by the first respondent herein are without jurisdiction and they are in violation of the provisions of Tamil Nadu Patta Pass Book Act.

8.The learned counsel had further contended that several civil suits are pending between the parties right from the year 2010 onwards. While the said suits are pending, the first respondent ought not to have initiated any proceedings for cancellation of patta in the year 2012. The first respondent



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ought to have directed the respondents 2 to 4 to solve their disputes before the Civil Court. The learned counsel had further contended that the first respondent has chosen to send summons to various persons and without furnishing a copy of the statement made by those third parties, he had proceeded to pass the present impugned order. Despite a request made to the first respondent through a telegram, a copy of the petition was not furnished to the petitioners.

9.The learned counsel for the petitioners had further contended that this Court has granted an interim stay of all further proceedings before the first respondent herein on 16.04.2013. As per the said interim order, the first respondent can proceed with the enquiry but should not pass final order till 10.06.2013. However, by an order dated 17.04.2013, the first respondent has chosen to pass the present impugned order clearly in violation of the order of this Court.

10.The learned counsel for the petitioners had further contended that after the interim order was communicated to the first respondent, no notice was issued by the first respondent for continuation of the enquiry. Hence, without conducting any enquiry, the present impugned order has been passed. He had further contended that the first respondent in his impugned order, has



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also made certain adverse remarks as against the Advocate namely Mr.Balasubramaniam who was representing the petitioners in the civil suit.

The said Balasubramaniam is not a party to the patta proceedings. In such an event, without affording any opportunity to them, the first respondent ought not to have passed adverse remarks and for a direction to initiate criminal prosecution as against them. Hence, he prayed for allowing the writ petition.

11.Per contra, the learned counsel appearing for the private respondents as well as the official respondents have contended that the property in dispute originally belonging to one A.G.Apparaj who had created a power deed in favour of one Ganesan. The said Ganesan has approached the Director of Town and Country Planning, Thiruverumbur for creating a lay out in the name of Chozhama Nagar for Survey No.288/2B in the year 1987. An approval was also granted by the said authority in Approval No.163/87. Based upon the lay out approval, the power agent namely Ganesan had executed several sale deeds in favour of private parties. The said Ganesan has also executed various documents surrendering the plots reserved for public purpose in favour of the Panchayat. The petitioners herein got a patta mutated in the revenue records during UDR proceedings and they have started disturbing the possession of the purchasers of the plots in the said lay out.

Except the patta issued by the revenue authorities on 06.07.2012 and the



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power deed executed on 20.03.2012, the petitioners have no other document for claiming title to the disputed property. Except the patta proceedings, no other document was placed before the first respondent herein to establish their rights over the disputed property. Hence, the order passed by the first respondent herein may be sustained.

12.I have considered the submissions made on either side and perused the materials available on record.

13.A careful perusal of the averments in the writ petition indicate that the petitioners solely relied upon a joint patta said to have been granted in their favour in Patta No.1212 for Suvey No.288/2B for an extent of 18.16 acres on 06.07.2012. Even before the said patta was granted in favour of 34 persons, a power deed has been executed in favour of the petitioners on 20.03.2012. The said power deed has not been placed before this Court to trace the basis on which such a document was executed.

14.A sale deed is said to have been executed by one Ponnar in favour of the second petitioner on 05.06.2009 for 3 acres in Survey No.288/2B referred to Patta No.1212. Hence, it is evident that all the records have been created only pursuant to the Patta issued by the second respondent herein.



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15.It is also seen from the additional typed set of papers that three suits are pending before the District Munsif Court, Trichy in O.S.No.1045 of 2012, O.S.No.832 of 2012 and O.S.No.598 of 2012 filed by various plot owners as against the writ petitioners. In all the above said civil suits, they have claimed that they have purchased the plots from the power agent Ganesan and they are in possession and enjoyment of the said property. All the suits have been filed for permanent injunction as against the present writ petitioners.

16.The second respondent has already granted Patta in favour of the 34 persons. Naturally, the said order has to be challenged by the respondents 2 to 4 only before the first respondent herein. The first respondent alone is the appellate authority under the Tamil Nadu Patta Pass Book Act. Hence, the appeal presented by the respondents 2 to 4 before the first respondent cannot be said to be legally un-sustainable. The first respondent herein after going through the various documents, has arrived at a categorical finding that the Patta issued in favour of the said 34 persons has no legal basis and it has been obtained based upon certain legally unacceptable documents. The first respondent has proceeded to cancel the patta granted in favour of the said 34 persons. It has not been clarified in the writ petition, how the second petitioner claims title, except relying upon a sale deed dated 05.06.2009 said



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to have been executed by R.Ponnar. The said Ponner is the son of one Rengasamy who is also said to be one of the joint pattadhars. When such being a case, the question of second petitioner claiming exclusive right or exclusive patta in the disputed property may not arise.

17.In view of the various factual disputes and pendency of the civil suits before the competent civil Court, this Court would not like to go into the issue relating to the title or possession of the disputed property. The first respondent herein has only found that the patta that was granted in favour of 34 persons has not been granted after following due process of law and the said order has been passed without any legal basis. This Court does not find any illegality or infirmity in the order passed by the first respondent herein with regard to the cancellation of patta. However, the first respondent ought not to have made adverse remarks as against Mr.Balasubramaniam who is an Advocate appearing on behalf of the writ petitioners before the Civil Court. The said Mr.Balasubramaniam is not a party to the patta proceedings and he was not called upon to show cause why action should not be initiated. In fact, the first respondent will not have any jurisdiction whatsoever to direct initiation of criminal action as against the Advocate Mr.Balasubramaniam



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18.In view of the above said findings, the order impugned in the writ petition is sustained with regard to the cancellation of patta. However, the writ petition is allowed with regard to the adverse observations made by the first respondent for initiating criminal action as against the writ petitioners and Mr.Balasubramaniam, Advocate.

19.The writ petition is allowed to the above said extent. In other respects, the order of the first respondent is confirmed. No costs. Consequently, connected miscellaneous petitions are closed.

05.09.2022

Internet : Yes/No
Index : Yes/No
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To

1.The Revenue Divisional Officer
Tiruchirappalli

2.The Tahsildar
Tiruvarampur Taluk
Tiruchirappalli District



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R.VIJAYAKUMAR, J.

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Pre-delivery order made in
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