



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 20.06.2022

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

W.P (MD)Nos.10439 and 10508 of 2021

and

W.M.P. (MD)Nos.8117, 8180 and 8181 of 2021

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**W.P. (MD)No.10439 of 2021:-**

1.S.Subramanian

2.S.Swaminathan

... Petitioners

**Vs.**

1.The Commissioner,  
Tiruchirapalli Corporation, Trichy.

2.The Joint Director / The Member Secretary,  
Town and Country Planning,  
Tiruchirapalli City,  
Kajamalai, Tiruchirapalli.

3.The Assistant Commissioner,  
K.Abieshakpuram Zone,  
Tiruchirapalli City Municipal Corporation,  
Tiruchirapalli.

4.S.Jeyalakshmi

... Respondents

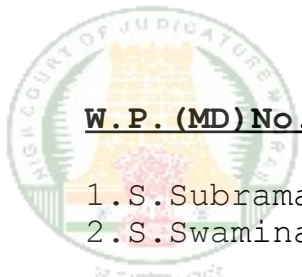
**Prayer :** Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the 2<sup>nd</sup> respondent in his proceedings dated 08.10.2020 made in Na.Ka.No.1341/2020/தொ-3 and consequential order passed by the 3<sup>rd</sup> respondent in his proceedings dated 11.12.2020 made in உ.ஆணை:086/BL/2020/01735 and quash the same as illegal and consequently direct the 2<sup>nd</sup> & 3<sup>rd</sup> respondents to pass orders after providing an opportunity of hearing to the petitioners within the period that may be stipulated by this Court.

For Petitioners : Mr.Ajmalkhan, Senior Counsel  
For Mr.R.Gandhi

For Respondents : Mr.R.Baskaran,  
Standing Counsel for R1 & R3

Mr.N.Ramesh Arumugam,  
Government Advocate for R2.

Mr.S.K.Mani for R4



W.P. (MD)No.10508 of 2021:-

1.S.Subramanian  
2.S.Swaminathan

... Petitioners

**Vs.**

1.The Commissioner,  
Trichy Corporation, Trichy.

2.The District Revenue Officer,  
Trichy.

3.The Tahsildar,  
Trichy West Taluk, Trichy.

4.The Deputy Inspector of Survey,  
Trichy West Taluk, Trichy.

5.S.Jeyalakshmi

... Respondents

**Prayer :** Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the 2<sup>nd</sup> respondent in his proceedings dated 30.05.2018 made in Na.Ka.No. 2-318-2018 and quash the same as illegal and consequently direct the 2<sup>nd</sup> respondent to pass orders after providing an opportunity of hearing to the petitioners within the period that may be stipulated by this Court.

For Petitioners : Mr.Ajmalkhan, Senior Counsel  
For Mr.R.Gandhi

For Respondents : Mr.R.Baskaran, Standing Counsel for R1

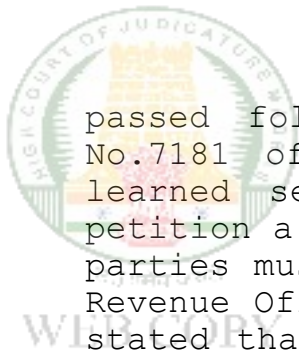
Mr.N.Ramesh Arumugam,  
Government Advocate for R2 to R4

Mr.S.K.Mani for R5

**COMMON ORDER**

Heard the learned senior counsel for the writ petitioners, the learned standing counsel for the Corporation, the learned Government Advocate for the official respondents and the learned counsel for the private respondent.

2.What is under challenge in W.P.(MD)No.10580 of 2021 is the order dated 30.05.2018 passed by the District Revenue Officer, Trichy re-classifying the petition mentioned land as vacant site instead of road and issuing patta in favour of the private respondent/S.Jeyalakshmi. She is none other than the biological sister of the writ petitioner herein. The impugned order came to be



passed following the direction given on 29.11.2017 in W.P.(MD) No.7181 of 2017 at the instance of the said Jeyalakshmi. The learned senior counsel would point out that in the said writ petition a specific direction has been given that all the interested parties must be heard before passing final order. But the District Revenue Officer, Trichy did not hear the petitioners herein. It is stated that the petition mentioned property was the subject matter of settlement deeds executed by one Rajamani Ammal, the mother of the parties herein. The settlor filed O.S.No.1413 of 2017 on the file of the II Additional Sub Court, Trichy impeaching the settlement deeds as fraudulent. Rajamani Ammal passed away on 07.05.2018. The petitioners herein have since filed impleading applications for setting aside the abatement and for coming on record to prosecute the said suit. According to the learned senior counsel, thus there is an existence of civil dispute between the parties. Therefore, as per Rule 4(4) of the Tamil Nadu Patta Pass Book Rules, 1987, the authority must have directed the concerned party to obtain a ruling on ownership from a competent civil Court. Therefore, he wants this Court to quash the impugned order.

3.What is under challenge in W.P.(MD)No.10439 of 2021 is the order granting planning approval at the instance of Jeyalakshmi.

4.The learned Government Advocate as well the learned counsel for the private respondents submitted that no interference is called for.

5.I carefully considered the rival contentions and went through the materials on record. The learned senior counsel may not be justified in placing reliance on Rule 4(4) of the Tamil Nadu Patta Pass Book Rules, 1987, because the said rule will apply only in the case of agricultural land. The lands in question are not agricultural land. The question that arises for consideration is whether on account of existence of a civil dispute regarding ownership between the parties, the revenue authorities must have relegated the parties to go before the civil Court. The learned senior counsel placed reliance on the decision of the Hon'ble of Division Bench of this Court reported in **[(2011) 5 CTC 94 (DB) (Vishwas Footwear Company Ltd. Vs. The District Collector, Kancheepuram)]**. In this case, the private respondent claimed that her mother executed two settlement deeds in her favour in the year 2007. It is seen that O.S.No.1413 of 2017 was filed only on 14.12.2017. Thus, when the direction was given in W.P.(MD)No.7181 of 2017, there was no rival claim. Only subsequent to the issuance of said direction, the mother has filed the aforesaid civil suit. At present, the mother is also no more. The petitioners who are biological brothers of Jeyalakshmi have stepped in to prosecute the same.

6.The petitioners obviously cannot have any grievance regarding



the re-classification of the land. The land in question was originally classified as road in the detailed development scheme. Since the acquisition proceedings were not taken, they stood lapsed and there was re-classification as a vacant site. Therefore, this portion of the impugned order does not deserve any interference.

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7.As regards issuance of patta in favour of the private respondent, I am of the view that it does not call for any interference. Jeyalakshmi is presently claiming title on the strength of registered documents. Only if they are set aside and characterized as fraudulent documents by the jurisdictional civil Court at the instance of the petitioners herein, the petitioners will have any right in the property. Till then, the private respondent will be entitled to place reliance on the documents in her favour by her mother. Therefore, even while sustaining the order granting patta in favour of Jeyalakshmi, I have to clarify that both orders impugned in these writ petitions will have to be abide by the outcome of O.S.No.1413 of 2017 on the file of the II Additional Sub Court, Trichy.

8.I need to make one more clarification. There is a serious contest regarding possession. In the impugned orders, there are certain observations and findings in favour of Jeyalakshmi regarding possession. On the facts and circumstances of the case, it is only the jurisdictional civil Court that can render any finding. Therefore, findings regarding possession in favour of Jeyalakshmi stands vacated.

9.The learned trial Judge is directed to dispose of O.S.No.1413 of 2017 on merits and in accordance with law within a period of nine months from the date of receipt of a copy of this order. I make it clear that the outcome of these writ petitions will not have any bearing on the rights of the writ petitioners herein. The Registry is directed to mark a copy of this order to the learned II Additional Sub Court, Trichy.

10.These writ petitions are disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

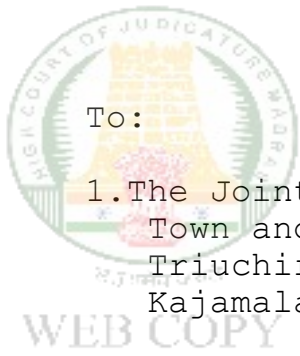
Assistant Registrar (CS-III)

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/07/2022

Sub Assistant Registrar(CS)

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To:

- 1.The Joint Director / The Member Secretary,  
Town and Country Planning,  
Tiruchirapalli City,  
Kajamalai, Tiruchirapalli.
- 2.The District Revenue Officer,  
Trichy.
- 3.The Commissioner,  
Tiruchirapalli Corporation,  
Trichy.
- 4.The Assistant Commissioner,  
K.Abieshakpuram Zone,  
Tiruchirapalli City Municipal Corporation,  
Tiruchirapalli.
- 5.The Tahsildar,  
Trichy West Taluk,  
Trichy.
- 6.The Deputy Inspector of Survey,  
Trichy West Taluk,  
Trichy.

Copy to:

The II Additional Subordinate Judge, Trichy.

+1 CC to M/s.R. GANDHI, Advocate ( SR-27033[F] dated 21/06/2022 )

+3 CC to M/s.S.K. MANI, Advocate ( SR-26976[F] dated 20/06/2022 )

+1 CC to M/s.SPL.GP ( SR-27136,SR-27177[F] dated 21/06/2022 )

**W.P(MD)Nos.10439 and 10508 of 2021  
20.06.2022**

RD(04.07.2022) 5P 13C