BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **08.08.2022**

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.13145 of 2014
and
M.P.(MD)Nos.1 & 2 of 2014

Manikandan ... Petitioner

Vs.

1.The District Revenue Officer cum
Additional District Magistrate,
Ramanathapuram District,
Ramanathapuram.

2.The Revenue Divisional Officer,
Paramakudi,
Ramanathapuram District.

3.The Thasildar,
Kamuthi Taluk,
Ramanathapuram District.

4.Vijayarani ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records of the order of the first respondent in Pa.Mu.29341/2013 (B5), dated 21.06.2014 confirming the order of the second respondent, dated 22.03.2013 passed in Pa.Mu.(A1)8084/2012 and quash the same.
(prayer amended as per order, dated 18.08.2014 in M.P.(MD)No.3/2014)

For Petitioner : Mr.D.Malaichamy,

For Respondents : Mr.N.Muthuvijayan,
Special Government Pleader, for R1 to R3.

: Mr.D.Balamurugapandi, for R4.

ORDER

The present Writ Petition has been filed seeking to quash the order passed by the first respondent, confirming the order passed by the second respondent under which, the request of the petitioner for cancellation of the patta standing in the name of the fourth respondent was rejected.

2.According to the petitioner, patta No.927 was standing in the name of his father, namely, Ramalingam, for an extent of 0.13.0 Ares in S.No. 325/2B2 and for the extent of 0.01.0 Ares in S.No.325/2B1. After death of his father, the petitioner was granted patta No.1791 for 0.06.5 Ares in Sub-Division No.325/2B2. The petitioner and his family members were granted patta for one Are in patta No.1488.

3. The fourth respondent has approached the Revenue Authorities with a request to grant patta for 0.06.5 ares in S.No.325/2B2B. She had not sought patta for the entire extent in S.No.325/2B1 and S.No.325/2B1. Hence, the

Revenue Authorities have granted patta to the fourth respondent herein for an extent of 0.06.5 ares in S.No.325/2B2A in patta No.1478.

4. The writ petitioner has approached the second respondent herein to change the patta granted in favour of his aunt namely, the fourth respondent herein in patta No.1478 in S.No.325/2B2A and S.No.325/2B1 to his name. The Authority, without considering the merits on either side, has proceeded to pass an order cancelling the two pattas standing in the name of the writ petitioner and his family members. The patta Nos.1791 and 1488 have also been cancelled and they have been restored in the name of the writ petitioner's father.

5. According to the learned counsel for the petitioner, when he had approached the Authority to change the patta No.1478 granted in favour of the fourth respondent to his name, the Authority should have either accepted his request or rejected the same. However, the Authority, without any jurisdiction and without having any objections from the fourth respondent herein, has proceeded to cancel the other two pattas, namely, 1791 and 1488. Hence, he prayed for allowing the Writ Petition.

6. Per contra, the learned counsel for the fourth respondent had contended that the properties in dispute are the ancestral properties of the petitioner's father, in which, she is also entitled to the share and hence, no objection could be raised for cancellation of the said pattas before the first and second respondents herein.

7. I have given a careful consideration to the submissions made on either side.

8. Admittedly, the fourth respondent herein had approached the Revenue Authority for granting of patta, only for an extent of 0.06.5 Ares in S.No.325/2B2A. Accordingly, she was granted patta for the said extent in patta No.1478. She has not challenged the pattas granted in favour of the writ petitioner and his family members in patta Nos.1791 and 1488. In such a event, the respondents 1 and 2 had exceeded their jurisdiction in cancelling those pattas, which were not even challenged by the fourth respondent.

9. In view of the above said issue, the following order is passed :

(i) the orders impugned in the Writ Petition are sustained with regard to the patta No.1478.

(ii) The order passed by the first and second respondents with regard to the cancellation of patta No.1721 and patta No.1488 are hereby set aside and the Revenue Authorities are directed to restore the said pattas in the name of the writ petitioner and his family members.

(iii) with regard to the patta No.1478, the parties are directed to approach the competent Civil Court for redressing their grievance.

10. The Writ Petition is allowed to the extent as stated above. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Index : Yes / No
Internet : Yes / No
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Note :
In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

R.VIJAYAKUMAR ,J.

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To

1.The Chief Secretary to the Government of Tamil Nadu,
Secretariat, St.George Fort, Chennai.

2.The District Collector, Collectorate Campus,
Ramanathapuram District.

Order made in
W.P.(MD).No.13145 of 2014

08.08.2022