



W.P(MD)No.6241 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.11.2022

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.6241 of 2016
and
W.M.P(MD)No.5494 of 2016

1.Thangaraj (Died)

2.Mallika

3.Dhanalakshmi

4.T.Gurusamy

5.T.Kannan

... Petitioners

(P2 to P5 are impleaded vide Court order, dated
30.08.2022 in W.M.P(MD)No.14362 of 2022)

Vs.

1.The Revenue Divisional Officer,
Devakkottai.

2.C.Athinamilagi

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned order of the 1st respondent dated



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04.05.2015 in மு.மு.அ1-850-2015 served on 04.03.2016 and quash the same.

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For Petitioner : Mr.S.Manikandan

For R1 : Mr.B.Saravanan
Additional Government Pleader

For R2 : Mr.N.Balakrishnan

ORDER

The present writ petition has been filed challenging an order passed by the 1st respondent herein, under which patta has been granted in favour of the 2nd respondent herein for an extent of 5 ½ cents in Survey No.417/12.

2. According to the learned counsel for the petitioner, originally rough patta was granted in favour of the petitioner's wife. Thereafter, an objection was raised by the father of the 2nd respondent herein and an enquiry was conducted by the Special Tahsildar under the Natham Settlement Scheme. After hearing the father of the 2nd respondent, final patta was issued by an order, dated 31.10.1993 in favour of the writ petitioner's wife. Thereafter, an appeal was filed by the father of the 2nd respondent herein before the Assistant Settlement Officer under the



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Natham Settlement Scheme. The appeal was dismissed by an order, dated 28.04.1994. Thereafter, the 2nd respondent has not initiated any proceedings to challenge the said order. However, suddenly, the 2nd respondent had approached the 1st respondent herein by way of an application, dated 16.02.2015 on the allegation that erroneously patta has been issued in the name of the writ petitioner's wife and he challenged the same. The 1st respondent had chosen to entertain such an application and proceeded to grant patta in favour of the 2nd respondent herein. This order is under challenge in the present writ petition.

3. The learned counsel for the petitioner had relied upon a judgment by this Court in ***W.P.No.1247 of 1999, dated 15.06.2009 (Nachimuthu Gounder & Another Vs. The District Collector, Erode District and Others)*** to contend that once patta is issued in favour of a party under the Natham Settlement Scheme and if no appeal is preferred under the provisions of the Natham Settlement Scheme, the same cannot be challenged thereafter, since the authorities under the scheme has become *functus officio*. Hence, according to the learned counsel for the petitioner, patta was confirmed by the Assistant Settlement Officer under the Natham Settlement Scheme and thereafter, the present proceedings



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have been initiated before the revenue officials after a period of 21 years.

Hence, according to the learned counsel for the petitioner, the order impugned in the writ petition has to be set aside on the ground of lack of jurisdiction.

4. Per contra, the learned counsel appearing for the 2nd respondent had contended that the 1st respondent had considered the entire issue on merits and based upon the claim made by the 2nd respondent herein, the 1st respondent has arrived at a finding that the 2nd respondent is entitled to patta for an extent of 5 ½ cents in Survey No.417/12. The learned counsel for the 2nd respondent has also relied upon the order of the Assistant Settlement Officer, dated 28.04.1994 stating that the 2nd respondent would be at liberty to approach the District Revenue Officer for an appeal. Hence, according to the learned counsel for the 2nd respondent, the Revenue Divisional Officer had got jurisdiction and hence, the order impugned in the writ petition cannot be said to be without jurisdiction.

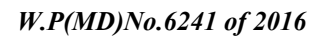
5. I have carefully considered the submissions made on either side.



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6. Admittedly, the rough patta has been issued in favour of the writ petitioner's wife. Thereafter, due to objection raised by the father of the 2nd respondent, an enquiry has been conducted by the Special Tahsildar under Natham Settlement Scheme. After hearing both the parties, the rough patta has been converted into a confirmed patta by an order, dated 31.10.1993. This order has been challenged by the father of the 2nd respondent before the Assistant Settlement Officer, Natham Settlement Scheme, Madurai. After hearing both the parties, an order has been passed on 28.04.1994 confirming the patta in favour of the writ petitioner's wife. Thereafter, the 2nd respondent has kept quiet for 21 years. The 2nd respondent had suddenly approached the 1st respondent on 16.02.2015 seeking patta in his favour after cancelling the patta in favour of the petitioner's wife.

7. In view of the judgment in ***W.P.No.1247 of 1999, dated 15.06.2009 (Nachimuthu Gounder & Another Vs. The District Collector, Erode District and Others)***, the authorities under the Natham Settlement Scheme have become *functus officio* after the orders have reached finality. In the present case, the orders have reached finality once the Assistant Settlement Officer had passed an order on 28.04.1994. No



8. In view of the above said facts, the 1st respondent does not have any jurisdiction to entertain such an application from the 2nd respondent on 16.02.2015. Therefore, the order impugned in the writ petition is without jurisdiction and the same is set aside. However, the 2nd respondent is at liberty to approach the competent Civil Court to establish his right, title and possession.

9. With the above said observations, this Writ petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index : Yes / No
Internet : Yes / No
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To
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Devakkottai.



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R.VIJAYAKUMAR ,J.

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Order made in
W.P(MD)No.6241 of 2016

Dated:
23.11.2022