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W.P.No.3281 of 2021

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED :30.01.2023**

**CORAM :**

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR**

**Writ Petition No.3281 of 2021**  
**and WMP.Nos.3727, 3728, 6044 of 2021**  
**and 27548 of 2022**

N.M.Thyagarjan

... Petitioner

-Vs-

1. The District Revenue Officer,  
Tiruvallur District,  
Office of the Collectorate,  
Tiruvallur.
2. The Revenue Divisional Officer,  
Tiruttani,  
Office of the Sub-Collector Office,  
Tiruttani Town.
3. The Tahsildar,  
R.K.Pet Taluk,  
R.K.Pet, Tiruvallur District.
4. N.S.Venkatesan

... Respondents

**Prayer :** Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for entire records relating to the proceedings in Na.Ka.No.23980/2020/N2, dated 05.01.2021 on the file of the 1<sup>st</sup> respondent and quash the same.



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For Petitioner : Mr.N.S.Sivakumar  
For Respondents : Mrs.Akila Rajendran  
Government Advocate [R1 to R3]

### **ORDER**

The prayer sought for herein is for a writ of Certiorari to quash the impugned proceedings of the first respondent in Na.Ka.No.23980/2020/N2, dated 05.01.2021.

2. The property at S.No.236/6 to an extent of 0.77 ares in patta No.7954 at Kalikapuram Village, R.K.Pet Taluk, Tiruvallur District is the subject matter. The property according to the petitioner was purchased by his father late K.N.Munusamy Mudali by a sale deed dated 20.01.1960, which was properly registered before the concerned Registering Authority.

3. Therefore, it is a case of the petitioner that, petitioner's father acquired this property as a self acquired property, hence, he purchased it by way of said sale deed.



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4. When that being so, at the time of issuance of patta after UDR survey, a joint patta had been issued in respect of the said property in the name of the petitioner's father and other four persons viz., 1.Subbaraya Mudali, 2. Arumugam, 3. Mohan and 4. Govindasamy.

5. After coming to know that under the UDR survey that joint patta had been issued by the Revenue Authorities to and in favour of the petitioner's father as well as other four persons and in order to rectify the same and to issue a separate patta in the name of the petitioner, the petitioner had given a representation to the Revenue Authorities, which was considered by the District Revenue Officer who passed an order on 29.02.2016 to restore the patta in the name of the petitioner's father in the SLR – A register as stood prior to the UDR survey.

6. Thereafter, aggrieved over the same, the fourth respondent, who is none other than the son of Subbaraya Mudali, who is the brother of K.N.Munusamy Mudali, seems to have approached the Revenue Authorities and whose petition having been considered was decided by the first respondent District Revenue Officer vide his proceedings dated 05.01.2021, under which, the first respondent citing the reason that the



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fourth respondent has already filed a suit in O.S.No.66 of 2016 seeking a declaration of title over the property in question in favour of the fourth respondent, who was the plaintiff and the said suit was pending, where subsequent to the order passed by the District Revenue Officer dated 29.02.2016, an order of *status-quo* was passed, based on which, legal opinion was obtained from the concerned GP i.e., Government Pleader and by citing all these reasons, the first respondent in the order dated 05.01.2021 had directed to cancel the individual patta issued in the name of that K.N.Munusamy Mudali and to issue a joint patta once again as it stood after the UDR survey in the name of the petitioner's father as well as the other four persons including the father of the fourth respondent.

7. The order passed by the first respondent dated 05.01.2021 as stated supra is impugned herein.

8. Reiterating the aforesaid Mr.N.S.Sivakumar, learned counsel appearing for the petitioner submits that the property in question in entirety was purchased for proper sale consideration by the father of the petitioner viz., K.N.Munusamy Mudali by registered sale deed dated 20.01.1960 and the copy of the same has also been filed in the typed-set



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of documents. Relied upon the same, learned counsel would contend that, during UDR survey, it has been wrongly understood, as if that, it is a family property belongs to the petitioner's father and four others including the father of the fourth respondent and accordingly, joint patta was issued. Therefore, in order to rectify the same, the petitioner had given representation, which was properly considered by the Then District Revenue Officer and he passed an order on 29.02.2016 directing the Revenue Authorities to issue separate patta in the name of the petitioner's father and that was also given and registered in the Village A Register also.

9. He would also submit that, a mere filing of a suit in O.S.No.66 of 2016 before the Sub Court, Tiruttani by the fourth respondent seeking declaratory relief would not stand in the way for the respondents to once again cancel the individual patta issued in the name of the petitioner's father and to restore the joint patta, which was given pursuant to the UDR survey. Therefore, the impugned order would not stand in the legal scrutiny and therefore, it is unsustainable. Hence, the learned counsel seeks indulgence of this Court.



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10. However Mrs.Akila Rajendran, learned Government Advocate appearing for the official respondents by relying upon the averments made in the counter affidavit would submit that, since the Civil Court has taken cognizance of the issue, as the fourth respondent set the law in motion before the Civil Court, where an order of *status quo* has been passed and based on which, after getting the legal opinion from the Government Pleader concerned, this order has been passed. Therefore, if at all any further case is to be made as desired by the petitioner that can be taken care of only after the Civil Court decide the issue in one way or other and till such time, the order impugned can very well be sustained, learned Government Advocate contended.

11. On behalf of the fourth respondent counter affidavit has been filed, where the fourth respondent has taken a stand that the property in question is a common property of the family concerned, where the petitioner's father as well as the fourth respondent's father and others had share. Therefore, claiming the co-ownership of the property in question, the fourth respondent contended that, he has already approached the Civil Court by filing a declaratory suit, which is pending trial and unless the suit is decided, the petitioner cannot claim that it is an individual



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property of the petitioner's father and subsequently claimed to have been inherited by the petitioner. Therefore, the impugned order passed by the District Revenue Officer is to be sustained, he contended.

12. I have considered the said rival submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

13. It is to be noted from the impugned order passed by the first respondent dated 05.01.2021 that, the main reason stated by the first respondent to pass the said order was that, the fourth respondent has filed a suit in O.S.No.66 of 2016, where an interim order of *status-quo* was granted by the Civil Court.

14. However, if we look at paragraph 6 of the counter affidavit filed on behalf of the official respondents, they have clearly stated that the fourth respondent was able to get an interim order of *status-quo only* on 04.05.2016 whereas prior to that, on 23.04.2016 order was passed,



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therefore, subsequent *status-quo* order if at all anything is passed by the Civil Court that only to protect the *status-quo* that has already been prevailed as on date of the order. Hence, what order has been passed already in favour of the petitioner is to be retained till the disposal of the suit.

15. That apart, on merits also, it is a definite case of the petitioner's father that petitioner's father purchased the property by a valid sale deed dated 20.01.1960 individually in the name of the petitioner's father, based on which, patta was issued in the name of the petitioner's father. Subsequently, after UDR survey, joint patta was issued treating it as a joint family property and that mistake has been rectified by the subsequent order passed by the District Revenue Officer. Therefore, individual patta was issued and recorded in the A Register of the village in the name of the petitioner's father. Hence, if at all that has to be changed, unless and until the Civil Court comes to a conclusive decision as to who is having the title over the property after completing the trial, it cannot be stated that, merely because a suit has been filed by the fourth respondent, the status can be altered. Therefore, the said reason given by the first respondent in the impugned order, in the considered opinion of this Court



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would not stand in the legal scrutiny. Therefore, the impugned order cannot be sustained.

16. If at all the Civil Court decide the issue as to from which source the property was purchased by the petitioner's father in his name by sale deed dated 20.01.1960 and if it is the earning by the petitioner's father alone or the entire family that also is a matter to be decided by the Civil Court in the said suit. Therefore, before deciding those issues in a conclusive manner after completing the trial, no such conclusion can be arrived at by the Revenue Authorities. Therefore, for that reason also, the impugned order would not be sustained.

17. In that view of the matter, this Court is inclined to dispose of this writ petition with the following orders:

- ◆ That the impugned order is set aside and as a sequel, there shall be a direction to the parties herein to await the orders by way of judgment and decree to be passed by the Civil Court in the pending suit, where it is open to the petitioner as well as the fourth respondent to let in evidence to establish their case and ultimately the Civil Court can come to a conclusion either in favour of the fourth respondent or in favour of the petitioner.



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- ◆ It is needless to mention that parties to abide by the Civil Court decree. Till such time, the property in question shall stand in the name of the petitioner's father or the petitioner since the petitioner's father is no more and that position shall be restored by the respondents Revenue Authorities within a period of four(4) weeks from the date of receipt of a copy of this order.

With these directions, this writ petition is disposed of. No costs.

Connected miscellaneous petitions are closed.

**30.01.2023**

Index : Yes/No  
Speaking order: Yes/No  
Neutral Citation: Yes/No  
mp

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**R. SURESH KUMAR, J.**

mp

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