



W.A.No.3512 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.6.2023

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
AND
THE HONOURABLE MR.JUSTICE P.DHANABAL

W.A.No.3512 of 2019

Dr.Hemalatha

...

Appellant/13th Respondent

Vs.

- 1 Ramdas(died)
- 2 The Sub Collector/Revenue
Divisional Officer, Coimbatore North
Revenue Division, Thudiyalur, Coimbatore.
- 3 The Tahsidar,
Coimbatore North Taluk, Balasundram Road,
Coimbatore.
- 4 The Village Administrative Officer,
Kalapatti (East), Coimbatore District.
- 5 The Taluk Surveyor,
Kalapatti, Coimbatore District.
- 6 S.Sivaraman
- 7 S.P.Duraisamy
- 8 Dhanyalashmi
- 9 Chitra
- 10 Lalithambigai
- 11 Muruganadam
- 12 Ravi
- 13 P.Thirumoorthy



W.A.No.3512 of 2019

14 Jothimani
15 Subramaniam
16 Marappan
17 R.V.Harikrishnan ... Respondents/Respondents
(legal Heir of Deceased 1st Respondent)
Represented by O.Radhakrishnan
(power of Attorney Agent)
(R17 brought on record as legal heir of the deceased first respondent vide
order dated 22.7.2022 made in C.M.P.No.11604 of 2022)

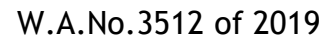
Writ Appeal filed under Section 15 of Letters Patent to set aside the
order passed in W.P.No.34112 of 2018 dated 21.12.2018 on the file of this
Court.

For Appellant : Mr.M.Sriram
Respondent No.1 : Died
For Respondent No.2 to 5 : Mr.A.Selvendran, Spl.G.P.
For Respondents 6,8to12, : Notice not ready
14, 15
For Respondents 7,13 & 16 : No appearance
For Respondent No.17 : Mr.N.Ponraj

JUDGMENT

(Judgment of the Court was delivered by **D.KRISHNAKUMAR, J.**)

The first respondent (died) herein has filed a writ petition in
W.P.No. 34112 of 2018 challenging the impugned order passed by the third
respondent in No.T.R.2018/12/12/000179SD dated 9.2.2018 by effecting sub-
division and transfer of patta in the name of the respondents 6 to 16 in respect
of the property in question in the instant writ petition.



3. The Writ Court while disposing of the writ petition at the stage, directed the second respondent to dispose of the appeal of the first respondent on merits and in accordance with law, within four weeks from the date of receipt of copy of the order, after



W.A.No.3512 of 2019

providing opportunities to the interested parties in the said appeal.

Challenging the said order, 13th respondent in the writ petition has filed the instant intra Court appeal before this Court.

4. Heard the learned counsel appearing for the appellant, learned Special Government Pleader appearing for the official respondents, learned counsel appearing on behalf of the first respondent and perused the materials available on record.

5. The learned counsel appearing for the appellant submitted that the suit filed by the first respondent is ripened for trial. In such circumstances, appellate authority cannot decide the title dispute between the parties. Further, the appeal also rejected by the appellate authority. The competent authority is civil Court and the appellant is also abide by the decision of the civil Court in the aforesaid suit. Such view of the matter, the order passed by the Writ Court is liable to be set aside.

6. The learned counsel appearing for the respondent No.17 submitted that the first respondent passed final order without providing adequate opportunity of being heard and consequently, the second respondent had surveyed the property and sub-divided the land as requested by the



W.A.No.3512 of 2019

respondents 5 to 16 and therefore, they filed contempt petition No.395 of 2020 against the second respondent.

7. The crux of the writ petition is that the civil dispute regarding title between the parties. Under Sec.14 of the Tamil Nadu Patta Pass Book Act, 1983, the competent authority to decide the dispute regarding title is the competent civil Court. The Tahsildar is not empowered to adjudicate upon the "title" dispute.

8. Therefore, we are of the view that the dispute regarding title between the parties shall be decided by the competent civil Court. The Hon'ble Supreme Court in *Edelweiss Asset Construction Co. Ltd. v. R. Perumalswamy* reported in (2021) 11 SCC 98 : 2020 SCC OnLine SC 833 at page 109 has held as under:

“19.Under the Tamil Nadu Patta Pass Book Act, 1983 and the Tamil Nadu Patta Pass Book Rules, 1987, the Tahsildar is not empowered to adjudicate upon a “title dispute”. A combined reading of Section 14 and Rule 4(4) indicates that where there exists a dispute with respect to ownership of a land between parties with respect to a patta entry, the correct procedure to be adopted is to approach a civil court having competent jurisdiction. The entry records will be updated on the basis of the decree of the civil court



WEB COPY



W.A.No.3512 of 2019

upon adjudication.

20. In the present case, Government Order dated 17-8-2004 [GO No. 385, dated 17-8-2004.] revoked the powers of rectification of defects in updating of registry cases conferred upon the Tahsildar by Government Order No. 921 dated 15-8-2001. Instead, Government Order dated 17-8-2004 [GO No. 385, dated 17-8-2004.] empowered the DRO to cure any defects occurring in the land registry after enquiry. In the present case, the first respondent by an application dated 7-9-2015 approached the DRO for change of patta in respect of the disputed lands. The DRO issued summons to the appellant to prove its legal ownership and possession. By an order dated 28-12-2015, the DRO solely relied on the report of the Revenue Divisional Officer and ordered deletion of the appellant's name from the land records and replaced it with the first respondent's name. The Revenue Officer had no jurisdiction to adjudicate upon title. A dispute with respect to the title of land is a mixed question of fact and law, which needs to be raised before a competent civil court."

9. In the light of the above, the writ appeal stands disposed of.

The parties shall relegate the contentions/issues raised in this writ appeal, before the competent civil Court. We make it clear that the competent civil Court shall decide the suit in O.S.No.481 of 2018 independently without being influenced by the orders of the revenue authorities or the order passed by this Court. No cost.



WEB COPY



W.A.No.3512 of 2019

(D.K.K.J.) (P.D.B.J.)
20.6.2023

Speaking/Non Speaking order

Index: Yes

vaan

To

- 1 The Sub Collector/Revenue Divisional Officer, Coimbatore North, Revenue Division, Thudiyalur, Coimbatore.
- 2 The Tahsidar, Coimbatore North Taluk, Balasundram Road, Coimbatore.
- 3 The Village Administrative Officer, Kalapatti (East), Coimbatore District.
- 4 The Taluk Surveyor, Kalapatti, Coimbatore District.



WEB COPY



W.A.No.3512 of 2019

**D.KRISHNAKUMAR, J
AND
P.DHANABAL, J.**

vaan

W.A.No.3512 of 2019

Dated: 20.6.2023



WEB COPY



W.A.No.3512 of 2019