



W.P(MD)No.15034 of 2010

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.15034 of 2010 and
MP(MD) No.1 of 2010

P.Chellammal

... Petitioner

Vs

1.The District Revenue Officer,
Theni.

2.The Revenue Divisional Officer,
Periyakulam.

3.The Tahsildar,
Periyakulam.

4.P.Karuppiah

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records from the first respondent leading to pass the order in Na.Ka.No.40100/2009/D4, dated 13.05.2010 against Na.Ka.No.6022/2008/A1, dated 13.01.2009 and quash the same and consequently forbearing the respondents from implementing the said impugned order passed in Na.Ka.No. 6022/2008/A1, dated 13.01.2009.



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For Petitioner	: No appearance
For R1 to R3	: Mr.P.T.Thiraviam Government Advocate
For R4	: Mr.V.Janaki Raman

ORDER

This writ petition was filed in the year 2010 as against the order passed by the District Revenue Officer, Theni in Na.Ka.No.40100/2009/D4, dated 13.05.2010 under the Tamil Nadu Patta Pass Book Act,1983.

2.The case of the petitioner is that the fourth respondent herein is the brother of the petitioner's husband. By way of a partition deed, dated 12.06.1986, a Mango grove in S.Nos.704/1, 705/1, 705/3, 706/2 and 712/2 to an extent of 4 acres 59 cents was allotted to the fourth respondent. A Tamarind grove in S.No.690, to an extent of 4 acres 49 cents was allotted to the petitioner's husband. Subsequently, an exchange deed, dated 16.12.1992 was executed by both the fourth respondent and the petitioner's husband, wherein, the allotted properties have been exchanged between the petitioner's



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husband and the fourth respondent. The petitioner's husband has applied for transfer of patta on 25.11.1994. Meanwhile, the fourth respondent has also applied for transfer of patta. However, instead of applying for patta for the Tamarind grove, he has applied for Mango grove. The Tahsildar has conducted an enquiry and passed a common order, dated 03.03.1995, dismissing the application of the fourth respondent and granted patta in favour of the petitioner's husband. After the death of the petitioner's husband, the petitioner is in possession and enjoyment of the properties as per the Will, dated 25.07.1994 executed by her husband. Patta was also transferred in the name of the petitioner. Challenging the order of the Tahsildar, the fourth respondent has filed an appeal before the Sub Collector, Periyakulam and the same was dismissed by order dated 15.08.2007. Challenging the same, the fourth respondent has filed a revision petition and the same was dismissed as barred by limitation. With regard to the dispute between the petitioner's husband and the fourth respondent, a criminal proceedings in CC No.1336 of 1995 has also been initiated, wherein, the fourth respondent was acquitted by order



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dated 08.05.2008. Based on the acquittal in the criminal proceedings, the fourth respondent has approached the Revenue Divisional Officer, Periyakulam for transfer of patta and the same was allowed in his favour by order dated 13.01.2009 and the order of the Tahsildar dated 03.03.1995 has been set aside. According to the petitioner, the Revenue Divisional Officer has no right or authority to review/revise the orders of the Tahsildar. Challenging the order of the Revenue Divisional officer, the petitioner has preferred a revision before the District Revenue officer, Theni on 29.03.2009. The District Revenue Officer, Theni has dismissed the revision filed by the petitioner in his proceedings in Na.Ka.No. 40100/2009/D4, dated 13.05.2010 on the ground of limitation, without providing an opportunity to the petitioner. Even the petitioner has filed the revision belatedly, she ought to have been provided an opportunity to file an application for condone the delay in filing the revision to set aside the order dated 13.01.2009. Hence, this petitioner has approached this Court in the year 2010 challenging the order passed by the District Revenue Officer, Theni



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in his proceedings in Na.Ka.No.40100/2009/D4, dated 13.05.2010.

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3.Today(18.10.2023), when this writ petition is taken up for hearing, there is no representation for the petitioner.

4.The learned counsel appearing for the fourth respondent submits that the subject land is the ancestral property of his father, namely Ramuservai and there was a partition between the Ramuservai and his two sons namely the petitioner's husband Perumal and the fourth respondent Karuppaiah. By way of a registered partition deed, dated 14.06.1986 vide Doc.No.633 of 1986, the subject property shown in the B schedule has been allotted to the fourth respondent. In the strength of the unregistered exchange deed, the petitioner's husband Perumal made a request to the Tahsildar and based on that unregistered exchange deed, the Tahsildar has also transferred the patta in the name of said Perumal without providing an opportunity to the fourth respondent. Therefore, the fourth respondent has filed an appeal and the same



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was rightly considered by the District Revenue Officer and an order has also been passed by setting aside the order of the Tahsildar granting patta in favour of the petitioner. He further submits that the petitioner has filed a suit with regard to the subject property before the District Munsif Court, Periyakulam in O.S.No.388 of 1995 for the relief of mandatory injunction. However, the same was dismissed. She has also lodged a criminal complaint as against the fourth respondent and the same was taken on file in CC No.1336 of 1995 by the Judicial Magistrate Court, Periyakulam, which was ended in acquittal on 08.05.2008. The revenue officials has passed the order with the available records and the petitioner is not having any remedy in this writ petition.

5.This Court considered the submissions made by the learned counsel for the fourth respondent and perused the materials placed on record.

6.This writ petition is filed as against the order passed



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by the District Revenue officer. The petitioner has preferred a revision petition before the District Revenue Officer as against the order passed by the Revenue Divisional Officer, however with a delay and the impugned order has been passed on the ground of limitation. Therefore, considering the provision available under the Tamil Nadu Patta Pass Book Act, 1983 and since the order has been passed on the ground of limitation, this writ petition is allowed with the following directions:-

- i. The matter is remanded back to the District Revenue officer, Theni for fresh consideration and he shall pass an order by providing an opportunity to the petitioner.
- ii. The proceedings shall be concluded within a period of eight months from the date of receipt of a copy of this order.

No costs. Consequently, connected Miscellaneous Petition is closed.

18.10.2023

NCC: Yes/No
Index: Yes/No
Internet: Yes
vrn



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B.PUGALENDHI, J.

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