



W.P.(MD)No.10021 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 17.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.10021 of 2013
and M.P.(MD)No.1 of 2013

Shanmugam

... Petitioner

versus

1. The Revenue Divisional Officer,
Devakottai Taluk,
Sivagangai District.

2. The Tahsildar,
Thirupathur Taluk,
Sivagangai District.

3. Ganesan

4. K.Udayakumar
(R4 is impleaded vide order dated
09.09.2022 in M.P.(MD)No.2 of 2013)

5. K.R.Selvakumar
(R5 is impleaded vide order dated
19.09.2022 in WMP(MD)No.4606/2016)

... Respondents

Writ Petition filed under Article 226 of Constitution of India,



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seeking for the issuance of Writ of Certiorari, to call for the records relating to the impugned order made by the 1st respondent in his proceedings in *மு.முஅ1-1087-2013* dated 13.05.2013 and quash the same.

For Petitioner : M/s.H.Jasima Yasmin
for M/s.Ajmal Associates

For R1 and R2 : Ms.K.Christy Theboral
Additional Govt. Pleader

For R3 and R4 : No appearance

For R5 : Mr.J.Lawrance

ORDER

This writ petition is filed as against the order of the first respondent/the Revenue Divisional Officer, Sivagangai, cancelling patta which stood in the name of the petitioner and directing the second respondent/the Tahsildar, Thirupathur Taluk, to grant patta in favour of the third respondent.



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2. The learned counsel appearing for the petitioner submits that in respect of the property in Survey No.46-8 A3, patta was issued in the name of the petitioner and he is in possession of the property for more than 30 years and all of a sudden, on the application preferred by the third respondent, the first respondent/the Revenue Divisional Officer, Devakottai Taluk, Sivagangai, has conducted an enquiry and decided to grant patta in favour of the third respondent, without considering the documents relied on by the petitioner.

3. The learned counsel further submits that as per Rule 4(4) of the Tamil Nadu Patta Pass Book Rules 1987, when there is a dispute with regard to the title of property between two parties, in all fairness, the Revenue Authorities are not competent to take a decision on the title of the property and ought to have directed the parties to approach a competent Civil Court. But, in this case, the first respondent/the Revenue Divisional Officer, Devakottai Taluk, Sivagangai District, has decided to grant patta in favour the third respondent and therefore, the



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same has to be set aside.

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4. The learned counsel appearing for the fifth respondent submits that patta, in respect of the subject property, originally stood in the name of the third respondent's predecessor-in-title. However, the second respondent/the Tahsildar, Thirupathur Taluk, based on the request made by the petitioner that he is in possession of the property, without issuing notice and even without verifying the title documents, has granted patta in favour of the petitioner and that mistake has been rectified by the first respondent/the Revenue Divisional Officer on the appeal preferred by the third respondent and therefore, there is no reason to interfere with the order of the first respondent/the Revenue Divisional Officer.

5. This Court considered the rival submissions made and perused the materials available on record.



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6. Both the Revenue Officials have taken the decision in granting patta in favour of the petitioner and the third respondent without giving any opportunity to their respective parties. As rightly pointed out by the learned counsel for the petitioner, as per Rule 4(4) of the Tamil Nadu Patta Pass Book Rules 1987, when there is a dispute with regard to the title of the property between two parties, the Revenue authorities are not competent to take a decision on the title of the property and ought to have directed the parties to approach a competent Civil Court.

7. Further, this Court, under Article 226 of the Constitution of India, cannot decide the issue with regard to the tile of the property. Therefore, the writ petition is disposed of by giving liberty to the petitioner to work out his remedy by filing a Civil Suit before the concerned Civil Court.



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8. If any such suit is filed, the concerned Civil Court shall exclude the period of writ petition, which was pending before this Court, while calculating the limitation, if any, and conclude the suit as expeditiously as possible. The learned counsel appearing for the petitioner has given an undertaking that the petitioner will co-operate for early disposal of the suit. The order dated 13.05.2013 passed by the first respondent/the Revenue Divisional Officer, Devakottai Taluk, Sivagangai District, is kept under abeyance till the disposal of the suit. No costs. Consequently, connected miscellaneous petition is closed.

17.03.2023

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.



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B.PUGALENDHI, J.

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