



W.A.(MD)No.1257 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 02.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.A.(MD)No.1257 of 2015

and

M.P.(MD)Nos.1 & 2 of 2015

M.Selvam

Vs.

... Appellant

- 1.The District Collector,
Theni District.
- 2.The District Revenue Officer,
O/o. The District Revenue Officer,
Theni District, Theni.
- 3.The Revenue Divisional Officer,
O/o. The Revenue Divisional Officer,
Periyakulam, Theni District.
- 4.The Tahsildar,
Taluk Office, Theni Post,
Theni District.
- 5.The Divisional Engineer,
Construction & Maintenance,
Highways Department, Theni Post & District.



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6.Kulanthaivelu

7.E.Geetha

8.The Superintending Engineer,
Construction and Maintenance,
State Highways Department,
Madurai.

9.The District Revenue Officer,
Theni District.

...Respondents

(R8 and R9 are *suo motu* impleaded vide common order dated 11.10.2023 made in W.A.(MD)Nos.859 to 863 of 2023 etc., batch)

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent Act, to set aside the order passed in W.P.(MD)No.1280 of 2014, dated 30.10.2015 on the file of this Court.

For Appellant	: Mr.V.Balaji
For R1 to R5,	: Mr.N.Satheesh Kumar,
R8 & R9	Additional Government Pleader
For R6	: Mr.V.Vijayakumar
For R7	: Mr.C.Arul Vadivel @ Sekar,
	Senior Counsel

JUDGMENT

(Judgment of the Court was delivered by ***S.M.SUBRAMANIAM, J.***)

This Writ Appeal has been instituted challenging the order dated 30.10.2015 passed in W.P.(MD)No.1280 of 2014.



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2.The appellant in the present Writ Appeal preferred the Writ proceedings challenging the order of the 3rd respondent dated 10.01.2014, confirming the order of the 4th respondent in proceedings dated February, 2011.

3.The learned Senior Counsel appearing on behalf of the 7th respondent mainly contended that the 7th respondent is holding a valid decree granted by the competent civil Court of law and the said decree granted in the original suit was confirmed in the appeal suit.

4.Though S.A.(MD)No.400 of 2021 has been instituted, the learned Senior Counsel raised an objection by stating that the said Second Appeal is yet to be admitted by this Court. Therefore, based on the civil Court decree, the 7th respondent is entitled to hold patta as granted by the revenue authorities.

5.The appellant per contra made an attempt to cancel the patta granted in favour of the 7th respondent through Writ proceedings and the learned Single Judge directed the parties to approach the competent civil Court of law.



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6.It is not in dispute between the parties that the suit had ended in favour of the 7th respondent, which was confirmed by the first appellate Court. Further, it is not in dispute that the Second Appeal has been instituted, which is pending before this Court and yet to be admitted. That being the factual position placed before this Court, we are of the considered opinion that patta is to be granted, if a person could able to prove his ownership under Section 3 of Tamil Nadu Patta Passbook Act, 1983. Therefore, the revenue authorities are competent to entertain an application for grant of patta, only if the applicant could able to establish that he is the owner of the property and if the title or ownership is in dispute, then the authorities are not empowered to issue patta and they are bound to instruct the parties to approach the civil Court of law.

7.In the present case, the parties have already gone to the civil Court and S.A.(MD)No.400 of 2021 is pending before this Court. That being the factual position, the parties have to approach the revenue authorities only after disposal of the civil litigation and after reaching finality.



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8.In order to maintain the balance, we are of the opinion that the revenue proceedings are to be kept in abeyance. Accordingly, all the revenue proceedings already issued by the authorities under the provisions of the Tamil Nadu Patta Passbook Act, 1983 are kept in abeyance, till such time the civil disputes are resolved between the parties and after disposal of the civil litigations either of the parties are at liberty to approach the revenue authorities either for grant of patta, cancellation of patta or to mutate the revenue records as the case may be.

9.With these observations, this Writ Appeal stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

(S.M.S., J.) & (V.L.N., J.)

02.11.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

Yuva



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