



WP(MD)No.7756 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 24.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

WP(MD)No.7756 of 2014

and

WMP(MD)No.1 of 2014

Beermeerakhan

... Petitioner

Vs

1.The Revenue Divisional Officer,
Paramakudi,
Ramanathapuram District.

2.The Tahsildar,
Kadaladi Taluk,
Ramanathapuram District.

3.A.Kupurammal

4.Noorul Jemila

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for a writ of Certiorari calling for the records relating to the impugned order passed by the 1st respondent in his proceedings in Pa.Mu(Pa) 3671/2023 dated 09.01.2014 as disclosed in his proceedings dated 17.04.2014 in Na.Ka.No.P1/3136/2014 and quash the same as illegal.

For Petitioner	: Mr.D.Malaichamy
For Respondent	: Mr.G.V.Vairam Santhosh,
Nos.1 and 2	Additional Government Pleader
For Respondent	: Mr.Rajasekar
Nos.3 and 4	



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ORDER

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This writ petition is filed as against the orders of the Revenue Divisional Officer dated 09.01.2014. The RDO on the appeal preferred by the respondent 3 and 4 has cancelled the entries made in the patta pass book in favour of the petitioner and has also issued joint patta in the name of the respondents 3 and 4.

2.The learned Counsel for the petitioner submits that the RDO is not having any authority to confer the right on the respondents 3 and 4 on the appeal preferred by them. The RDO ought to have referred the issue to the civil Court, instead, he allotted a portion of the land in favour of the respondents 3 and 4 and therefore, impugned order is liable to be interfered with.

3.The learned Counsel for the petitioner further submits that on the very same grounds the petitioner earlier filed a writ petition in WP(MD)No.11165 of 2013 for forbearing the 2nd respondent from conducting enquiry. However, pending the writ petition, 2nd respondent



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proceeded with the appeal and also passed the impugned order. The 1st respondent has also decided the question of title without providing an opportunity of hearing on the surmises that neither relevant documents have been placed on record nor it is available with the office of the Tahsildar. The Revenue authorities are not having powers to cancel the patta, if there is any dispute between two parties with regard to the patta, the RDO ought to have directed the parties to approach the civil Court, instead of doing so, the RDO has proceeded with the appeal and cancelled the patta issued in favour of the petitioner, when he is not having powers under the Patta Pass Book Act. The learned Counsel for the petitioner has also relied on the judgment of this Court in **C.Sebesan Chettiar and others Vs The District Revenue Officer, Coimbatore**, reported in **2011(5) CTC 241** wherein the Hon'ble Division Bench of this Court has held as follows:

"19.It is the case of the Fourth Respondent /Writ Petitioner that since the issues raised by the Deceased Appellant/Fourth Respondent involved adjudication of disputed questions of fact, the District Revenue Officer ought to have



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directed him to work out his remedy before a competent Civil Forum.

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21. The said Venkita Subba Iyer executed a Release Deed dated 27.04.1940 pertaining to the said lands in favour of Kumarappa Chettiar. Thereafter, Muthalagan Chettiar and his sons viz., Kumarappa Chettiar, Annamalai Chettiar and Chidambaram Chettiar effected partition among themselves by means of a registered partition, in which, the said agricultural lands were allotted commonly to them. In respect of the agricultural lands comprised in S.F.Nos.547 and 548, which are the subject matter of dispute, the Writ Petitioner played mischief and by suppressing the facts, filed representation and managed to include his name in the UDR Records. Therefore, the Deceased Appellant/Fourth Respondent in the Writ Petition submitted a representation dated 28.03.2007 to the Tahsildar, Coimbatore, to remove the Writ Petitioner's name and to include his name in the UDR Records."

4. The learned Counsel for the respondent submits that the land in Survey No.138/1S1 originally stood in the name of one Mohammed Mustafa and Beer Mohammed as patta No.265.



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The petitioner has also produced a copy of SLR, which stands in the name of Beer Mohammed. While so, the Tahsildar without issuing any notice to the respondents 3 and 4 has cancelled the patta, which stood in the name of Beer Mohamed and has also granted patta in favour of the petitioner's father. Therefore, respondents 3 and 4 have preferred an appeal before the RDO and the RDO after verifying the records from the Tahsildar Office and after conducting a field survey has corrected the mistake committed by the Tahsildar in the year 2011 in RTR No. 1369/2011. He also pointed out that sufficient opportunity was provided to the petitioner and the RDO has called for records from Tahsildar but no document was placed and this petitioner was also aware of the appeal proceedings before the RDO. When the appeal was pending, the petitioner has approached this Court and filed a writ petition. Hence, there is no need to interfere with the impugned order.

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



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6.The RDO has recorded that patta for the property in S.No.138/1S1 in patta No.265 was issued in the name of one Mohamed Mustafa and Beer Mmohammed. The Tahsildar by his proceedings in RTR No.1369/2011 has deleted the names of respondents 3 and 4 and recorded the name of the petitioner. Aggrieved over the same, respondents 3 and 4 filed an appeal before the RDO under the Patta Pass Book Act. The RDO after verifying the records, recorded that it is not known on what basis the patta was granted to the petitioner and this petitioner has also failed to produce the relevant documents, has proceeded with the appeal and also passed an order. Vide the impugned order, the RDO has corrected the mistake committed by the Tahsildar.

7.The petitioner in fact has filed a writ petition in WP(MD)No.11165 of 2013 before this Court to prevent the RDO from proceeding with the appeal. However, the petitioner has failed to obtain any order from this Court and the said writ petition in WP(MD)No.11165 of 2013 was subsequently dismissed as infructuous in view of the impugned order passed by the RDO.



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8. Mutation of entries in the patta pass book is permissible only on three circumstances viz., (i) on death of the pattadhar (ii) transfer of interest in the land by way of deed and (iii) any other subsequent change in circumstances. If there is any dispute with regard to the title of the property, the revenue authorities are not competent to take a decision on the title of the parties as per Rule 4(4) of the Tamil Nadu Patta Pass Book Rules, 1987.

9. In this case, the Tahsildar has mutated the entries in the patta pass book without providing opportunity to the respondents 3 and 4 and the same was corrected by the RDO in the appeal filed by respondents 3 and 4 and therefore, this Court is not inclined to interfere with the impugned order. Accordingly, this writ petition is dismissed. However, the petitioner is at liberty to work out his remedy before the civil Court. NO costs. Consequently connected miscellaneous petition is also dismissed.

24.03.2023

Internet : Yes / No

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To

1. The Revenue Divisional Officer,
Paramakudi,
Ramanathapuram District.
2. The Tahsildar,
Kadaladi Taluk,
Ramanathapuram District.



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B. PUGALENDHI, J.

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