



W.P.(MD) No.17045 of 2015

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.02.2023

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

**W.P.(MD) No.17045 of 2015
and
M.P.(MD) Nos.1 and 2 of 2015**

Palaniappan @ Srinivasan (died)

1.Rajamani

2.Palanisamy

3.Malarkanni

4.Umapathy

*(P1 to P4 have been impleaded
vide order dated 03.08.2022)*

... Petitioners

/vs./

1.The Tahsildar,
Aravakurichi Taluk,
Karur District.

2.Packiam

3.Pooranam



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4.Thavamani

Pushpa (died)

5.K.Rajendran

6.Nagarathinam

7.Subramani

8.Udayakumar

9.Samundeeshwari

10.Alex Pandian

11.Alexander

12.Nancy Sisiliya

13.Lincy Macarina

*(R5 & R9 to R11 have been impleaded
vide order dated 15.07.2022 and R12
& R13 have also been impleaded
vide order dated 14.09.2022)*

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records relating to the impugned order passed by the 1st respondent in his proceedings Na.Ka.A2/4456/2012 dated 05.03.2015 and quash the same as illegal and without jurisdiction.



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For Petitioners : Mr.B.Saravanan
For R1 & R8 : Mrs.D.Farjana Ghoushia
Special Government Pleader
For R2 & R3 : Mr.R.Narmthan
For R4 : Mr.D.Nallathambi
For R6 : Mr.M.Saravanakumar
For R10 & R11 : No appearance
For R12 & R13 : Mr.M.P.Senthil

ORDER

The writ petition has been filed challenging the order passed by the first respondent dated 05.03.2015 in respect of grant of patta.

2.Heard Mr.B.Saravanan, learned counsel for the petitioners, Mrs.D.Farjana Ghoushia, learned Special Government Pleader for the respondents 1 and 8, Mr.R.Narmthan, learned counsel for the respondents 2 and 3, Mr.D.Nallathambi, learned counsel for the fourth respondent, Mr.M.Saravanakumar, learned counsel for the sixth respondent, none appears for the respondents 10 and 11 and Mr.M.P.Senthil, learned counsel for the respondents 12 and 13.



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3.Mr.B.Saravanan, learned counsel for the petitioners would submit that the deceased petitioner (*herein after referred to as petitioner*) is the absolute owner of the land in S.No.485, measuring an extent of 1.70 acres, at Pavithram Village, Aravakurichi Taluk, Karur District. Disputes arose with regard to the title of property between the petitioners and the private respondents herein and various suits have also been initiated. The petitioner had preferred O.S.No.603 of 2006 seeking for permanent injunction restraining the private respondents herein from interfering with his possession of the property. The said suit came to be dismissed, against which he had preferred an appeal suit in A.S.No.31 of 2009. The same had been dismissed for default and the petitioner had also filed an interlocutory application in I.A.No.75 of 2013 seeking to restore the appeal suit. However, the same is still pending for consideration.

4.He would further submit that when the civil suits have not been concluded, the first respondent ought not to have passed the order impugned in the writ petition and should have awaited the result of the civil proceedings. On this ground alone, he would submit that the order impugned will have to be set aside.



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5.The learned counsels appearing for various private respondents would submit that the order impugned has been passed pursuant to the direction issued by this Court in earlier writ petitions and therefore, the petitioners cannot plead that the first respondent cannot assume the jurisdiction. They would further submit that the petitioner was not diligent in prosecuting his case and has allowed the same to be dismissed for default. Even though an application has been filed as early as in the year 2013, the same is still yet to be disposed of. Hence, that cannot be put against these respondents and set aside the detailed order passed by the first respondent. They would further submit that the suit filed by the petitioner was simpliciter suit for permanent injunction, which would not give any raise to his title. Hence, they would pray that this writ petition will have to be dismissed.

6.I have considered the rival submissions made by the learned counsels appearing on either side.

7.I have perused the order passed by this Court in the earlier round of writ petitions. This Court had found that the order that was impugned has been passed



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only based upon the opinion of the Government Pleader. This Court has also deprecated the opinion that had been given by the Government Pleader, as he had appeared for some of the parties, in whose favour he had given the opinion. Hence, the entire exercise was directed to be redone by the first respondent.

8.It is not in dispute that there has been severe title disputes between the parties. When such being the position, Rule 4 (4) of the Tamil Nadu Patta Passbook Act, 1983 clearly prohibits the Revenue Authorities from dealing with the applications for grant of patta. For better appreciation, the said Rule is extracted hereunder:-

“4.Procedure on receipt of application or information:-

(4) In the event of the Tahsildar being satisfied that a dispute concerning ownership of patta is already pending in a Court or issues are raised before him which impinge on personal laws or laws of succession and all the parties interested do not agree on the ownership in writing, he shall direct the concerned parties to obtain order on the ownership from a competent Civil Court having jurisdiction before changing the entries as already recorded and existing in the various revenue records.”



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9.This Rule has been reiterated by the Hon'ble Apex Court in the case of ***Edelweiss Asset Constructions Company Limited Vs. R.Perumalswamy and others*** reported in ***2021 (11 SCC) 98***. In the present case, there are various civil proceedings between the parties and there is an appeal suit that has been pending for very long time. Having found that the interlocutory application to restore the suit has been pending for more than 9 years, this Court has directed the District Judge, Karur to submit a report as to why the said application has been pending for such a long time. The District Judge, Karur had filed a report as to the reason why such application has been pending. The said report is taken on record.

10.This Court is of the view that the concerned Court, namely the Principal Sub Court, Karur shall take up I.A.No.75 of 2013 in A.S.No.31 of 2009 and dispose of the same within a period of three months from the date of receipt of a copy of this order and also dispose of the appeal suit in A.S.No.31 of 2009 on merits and in accordance with law within a period of three months thereafter. In view of the aforesaid direction, the order impugned in this writ petition shall be kept in abeyance and shall be subject to the result in the appeal suit and other civil proceedings.



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11. With the aforesaid directions, the Writ Petition is disposed of. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No
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21.02.2023

To

The Tahsildar,
Aravakurichi Taluk,
Karur District.



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K.KUMARESH BABU, J.

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