



W.P.(MD)No.8744 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.01.2023

CORAM :

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD)No.8744 of 2014

J.Manimala

... Petitioner

/Vs./

1.The District Collector,
Dindigul District,
Dindigul.

2.The Revenue Divisional Officer,
Nilakottai Taluk,
Nilakottai.

3.The Tahsildar,
Nilakottai,
Dindigul District.

4.A.Sarbaraj Navaaj

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus by directing the respondents to issue patta in the petitioner's name by canceling the patta stood in the name of the 3rd parties.

For Petitioner : Mr.P.Santhosh Kumar

For Respondents : Mr.V.Om Prakash

Government Advocate (R1 to R3)



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ORDER

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This Writ Petition has been filed seeking for a direction to the respondents to issue patta in the name of the petitioner by canceling the patta stood in the name of the third parties.

2. Heard the learned counsel appearing for the petitioner and learned Government Advocate appearing for the official respondents.

3. The learned counsel appearing for the petitioner would submit that the petitioner is bonafide purchaser in respect of S.No.1107/1 measuring to an extent of 0.81.5 hectares situated at Sevukampatti, Nilakottai Taluk, Dindigul District, by a registered sale deed bearing Document No.3229/2011 dated 25.11.2011 from one B.Sundara Pandian. Originally patta stood in the name of his vendor's mother, Alagayee Ammal. Inspite of several representations to the third respondent to issue patta in the name of the petitioner, the same has not been issued. Thereafter, it was understood by the petitioner that the fourth respondent herein, who was a Village Administrative Officer had issued patta in favour of one Rajangam and his brothers, as they have also encumbered



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the property. Therefore, she had made representation to the respondents to issue patta in the name of the petitioner by cancelling patta standing in the name of third parties. Since the representation has not been considered, she had approached this Court.

4. The learned Government Advocate appearing for the official respondents, relying upon the counter filed by the third respondent, would submit that the petitioner, having admitted in her affidavit that the patta has been issued in favour of Rajangam and his brother, had not impleaded them as party respondents in this writ petition and on that ground alone, this writ petition is liable to be rejected.

5. The learned Government Advocate appearing for the official respondents would further submit that during updation of revenue records, the name of Alagayee Ammal has been entered. But, however, a joint patta in the name of solaimalai and five others vide patta No.3711 had been issued. Updation of the name of Alagayee Ammal is not supported by any documents. However, as per survey and land register maintained prior to UDR, originally the aforementioned property stood registered in the name of one Veerayi Ammal. That apart, as on today,



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the revenue records have been mutated and stand in the name of other third parties.

6. The petitioner herself in her affidavit, has admitted that patta stands in the name of third parties. When that being so, Rule 4 (4) of the Tamil Nadu Patta Passbook Rules, 1987 (hereinafter referred to as “Rules” for brevity) also prohibits the revenue authorities from entering into the issue of disputed title for grant of patta and it also mandates the revenue authorities to direct the parties concerned to approach the appropriate civil Court. The said Rule has been reiterated in a judgment of the Hon'ble Supreme Court in the case of *Edelweiss Asset Constructions Company Limited Vs. R.Perumalswamy and others* reported in *2021 (11 SCC) 98* and hence, he prays this Court for dismissal of this writ petition.

7. I have considered the rival submissions made by the learned counsel for the parties and have perused the materials placed before this Court.



8. The petitioner, in her affidavit has categorically admitted that the patta stands in the name of some third parties and has sought for a direction to the respondents 1 to 3 to issue patta in her name by cancelling patta standing in the name of third parties. Such an averment in the writ petition would suffice to hold that there are rival claimants in respect of aforementioned property. As rightly pointed out by the learned Government Advocate appearing for the Official Respondents that Rule 4 (4) of the Rules prohibits the revenue authorities from entertaining any application for issuing patta, if there is a dispute between two private individuals and it also mandates the revenue authorities to relegate the parties to approach the appropriate civil Court.

9. In view of the aforesaid provision, even if a direction is issued to the concerned revenue authority to consider the representation of the petitioner and pass orders, it will only be incumbent upon the said authority to relegate the parties to a civil Court, in view of the admitted fact that there are rival claimants in respect of the same survey number. Hence, it is always open to the petitioner to initiate appropriate civil proceedings against parties concerned before appropriate Court to redress her grievance. In view of the prohibition under Rule 4 (4) of the



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Rules, the prayer as sought for in the Writ Petition cannot be granted.

However, the petitioner is at liberty to approach the appropriate civil Court to seek redressal of her grievance.

10. In fine, the Writ Petition stands dismissed. However, it is made clear for the purpose of reckoning limitation for availing the aforesaid remedy, the period from the date of filing of this Writ Petition, viz., 03.06.2014, till the date on which the certified copy of this order is made ready by the Registry, shall be excluded. There shall be no order as to costs.

19.01.2023

NCC : Yes/No
Index : Yes/No
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K.KUMARESH BABU, J.

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