



W.P(MD)No.19972 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 24.11.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.19972 of 2023

and

W.M.P.(MD) Nos.16474 and 18702 of 2023

N.Banumathi

... Petitioner

Vs.

1.The District Collector,
Thanjavur District,
Thanjavur.

2.The Additional Collector (Revenue),
Thanjavur District,
Thanjavur.

3.The Revenue Divisional Officer,
Thanjavur District,
Thanjavur.

4.The Tahsildar,
Orathanadu Taluk,
Thanjavur District.

5.Meikappan

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to



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call for the records of the impugned order of the 1st respondent dated 04.04.23 vide Na.Ka.31041/2021/U (2) and quash the same and further directing the 4th Respondent to make appropriate changes in the revenue records by implementing the order of the 2nd Respondent dated 23.12.2022 vide proceeding in Tha.Pa.15/2022/U (2).

For Petitioner : Mr.I.Robert Chandrakumar

For R1 to R4 : Mr.S.Ra.Ramachandran
Additional Government Pleader

For R5 : Mr.H.Arumugam

ORDER

Heard both sides.

2.The writ petitioner is none other than the sister-in-law of the fifth respondent. 5 cents of land in S.No.263/29 in Vadaseri North Village in Orathanadu Taluk was assigned in favour of Vasantha, wife of the fifth respondent on 12.10.1988. Copy of the said assignment order has been produced before me. The issuance of the assignment order in favour of Vasantha is also not in dispute or doubt. Unfortunately, the factum of assignment was not entered in the village accounts.



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3.While so, natham patta came to be issued in favour of the writ petitioner in the year 1994. The writ petitioner also put up a small construction under Tamil Nadu Free Housing Scheme. The fifth respondent also put up a construction in the year 2009. Dispute subsequently arose between the writ petitioner and the fifth respondent. The fifth respondent's wife submitted a petition before the third respondent/the Revenue Divisional Officer, Thanjavur, seeking mutation of patta in her name. The third respondent, vide proceedings dated 12.04.2022, relegated Vasantha to go before the jurisdictional civil Court. Vasantha subsequently passed away.

4.The fifth respondent and other legal heirs filed a revision before the Sub Collector, Thanjavur, questioning the order passed by the third respondent. The Sub Collector, Thanjavur, noticed that the writ petitioner had put up the construction over 94 sq.mts., whereas, the fifth respondent had put up the construction over 60 sq.mts., It was also noted on field inspection that the remaining extent of 54 sq.mts., was lying vacant. Revenue records were accordingly ordered to be mutated, vide



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proceedings dated 23.12.2022. As per the said order, the writ petitioner was issued patta over 94 sq.mts., whereas, the fifth respondent was issued patta over 60 sq.mts. The remaining extent was to be maintained as common pathway by both the parties. Not satisfied with the said order, the fifth respondent moved the first respondent/the District Collector, Thanjavur. On 04.04.2023, the first respondent allowed the revision petition as a whole and set aside the earlier orders passed by the other authorities. As a result, the legal heirs of Vasantha became the Pattathar for the 5 cents of land. Challenging the same, the present writ petition came to be filed.

5.The learned counsel appearing for the writ petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to grant the relief as prayed for.

6.The learned counsel for the fifth respondent as well as the learned Additional Government Pleader appearing for the official respondents submitted that the impugned order is well reasoned and it does not warrant interference.



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7.I carefully considered the rival contentions and went through the materials on record.

8.Though the learned counsel for the petitioner questioned the very maintainability of the petition filed by the fifth respondent before the first respondent, inasmuch as all the relevant facts have been placed before me, it will be better to test the impugned order on merits instead of going into the question of maintainability. The fact remains that 5 cents of land was assigned only in favour of Vasantha, W/o. the fifth respondent. The writ petitioner appears to have taken advantage of the fact that the assignment was not entered in the village accounts. The petitioner obviously cannot plead ignorance. She is after all the wife of the fifth respondent's brother. Though patta could not have been issued in favour of the writ petitioner, in the face of the assignment order made in favour of the wife of the fifth respondent, this singular factor has led the first respondent to pass the impugned order. But then the ground reality also cannot be lost sight of.



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9.The writ petitioner had put up a house in the petition mentioned survey number way back in the year 1997. It was under the subsidized housing scheme floated by the Tamil Nadu Government. In fact, in the year 2018, she availed further subsidy amount of Rs.50,000/- and renovated her house. Photograph of the petitioner's house has also been enclosed in the typed set of papers. That is why, the field inspection conducted by the Sub Collector, Thanjavur, also indicates that the petitioner's house is spread over 94 sq.mts., The fact that the petitioner has been residing in her house for more than 3 decades will have to be borne in mind. Therefore, the impugned order has to be interfered with to that limited extent. The third respondent had already sub-divided S.No. 263/29. Now, S.No.263/29 comprises only 94 sq.mts., The fourth respondent shall issue patta exclusively in the name of the writ petitioner in respect of 94 sq.mts., in S.No.263/29. The remaining extent had been sub-divided into S.Nos.263/33 and 263/34. In the fitness of things, patta for the remaining extent has to be necessarily issued in favour of the legal heirs of Vasantha. Accordingly, the fourth respondent is directed to issue patta in favour of joint names of the legal heirs of Vasantha for S.Nos.263/33 and 263/34. The grant of patta in respect of aforesaid two



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survey numbers will not lead to deprivation of the pathway rights of the writ petitioner. The impugned order is modified to that extent.

10.The Writ Petition is partly allowed, accordingly. No costs.

Consequently, connected Miscellaneous Petitions are closed.

24.11.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No

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To:-

- 1.The District Collector,
Thanjavur District,
Thanjavur.
- 2.The Additional Collector (Revenue),
Thanjavur District,
Thanjavur.
- 3.The Revenue Divisional Officer,
Thanjavur District,
Thanjavur.
- 4.The Tahsildar,

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G.R.SWAMINATHAN, J.

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