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WP.Nos.13712 & 13718 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2024

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

WP.Nos.13712 & 13718 of 2024
and W.M.P.Nos.14878, 14880, 14884 & 14885 of 2024

S.Thendral
K.Malarkodi

.. Petitioner in W.P.No.13712 of 2024
.. Petitioner in W.P.No.13718 of 2024

Versus

1.The District Revenue Officer
Chengalpattu, Chengalpattu District

2.The Revenue Divisional Officer
Tambaram, Chengalpattu District

3.The Tahsildar
Vandalur, Chengalpattu District

4.Rani
5.Sankari
6.N.Valarmathi
7.N.Charulatha
8.Jayashree
9.Pugazhedhi
10.Manivannan

.. Respondents in both WPs

Prayer in W.P.No.13712 of 2024: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 3rd REsodent dated 07.05.2024 vide proceedings in Na.Ka.No.500/2024/Aa2 quash the same and direct respondents 1 to 3 to restore patta No.2854 in the



WP.Nos.13712 & 13718 of 2024

names of the legal heirs of late C.Selvaraju for 2 acres 6 cents in S.Nos. 312/1B, 315/6, 315/8 and 312/2 for the lands in Saathankuppam Village, Chengalpet District.

Prayer in W.P.No.13718 of 2024: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 3rd Respondent dated 07.05.2024 vide proceedings in Na.Ka.No.500/2024/Aa2, quash the same and direct respondents 1 to 3 to restore patta No. 3669 for 26 cents in S.No.312/7 in the name of the petitioner for the lands in Saathankuppam Village, Chengalpet District.

In W.P.No.13712 of 2024

For Petitioner : Mrs.Hema Sampath, Senior Counsel
for Mr.B.Balavijayan

For Respondents : Mr.P.Sathish for R1 to R3
Additional Government Pleader
Mr.Sharath Chandran
for Mr.P.S.Prabhu for R4 to R10

In W.P.No.13718 of 2024

For Petitioner : Mr.M.K.Kabir, Senior Counsel
for Mr.B.Balavijayan

For Respondents : Mr.P.Sathish for R1 to R3
Additional Government Pleader
Mr.Sharath Chandran
for Mr.P.S.Prabhu for R4 to R10

COMMON ORDER



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Since the very same order is challenged in these writ petitions and issue are one and the same, they are disposed of by way of this common order.

2. These writ petitions are filed challenging the order passed by the 3rd respondent dated 07.05.2024 vide proceedings in Na.Ka.No 500/2024/Aa2, quash the same and direct respondents 1 to 3 to restore the pattas in Patta Nos.2854 and 3669.

3. It is the case of the writ petitioners that one Mannarpillai owned a large extent of land and he died on 21.12.1990. He had four sons and three daughters. In the year 1997, there was oral partition among them, the parties took possession of their respective shares. The properties held by the daughters were already sold. The writ petitioners purchased the properties from the sons of the Mannarpillai. After selling the properties, the daughters have filed a suit in O.S.No.28 of 1998 before the Sub Court, Chengalpet for their alleged 3/7th share in the suit properties. That suit was decreed in favour of the plaintiffs, however, on appeal, the First Appellate Court set aside the decree and judgment and the Second Appeal filed before this Court in S.A.No.1149 of 2006 also confirmed the judgment of the First Appellate Court the suit has reached finality. In the above judgments, it is concluded that the plaintiffs have



WP.Nos.13712 & 13718 of 2024

not rights whatsoever in the property. Now, despite the dismissal of the suit filed by daughters of the said Mannarpillai, it appears that several other proceedings have been taken before the police authorities and revenue authorities. Further, now, the impugned order has been passed by the Tahsildar to the effect that the family arrangement which was reduced in writing has been upheld by the Civil Court in O.S.No.28 of 1998, by interpreting the judgments of this Court, the names of private respondents have been included in the patta. Challenging the said order, these writ petitions.

4. The learned Senior Counsel for the petitioners submitted that the order of the Tahsildar will not stand in the legal scrutiny, in fact, the Tahsildar/third respondent has interpreted the judgments of this Court contrary to the facts proved in the civil proceedings.

5. Mr.P.Sathish, learned Additional Government Pleader fairly submitted that as far as the order of the Tahsildar is concerned, the Tahsildar has exceeded its jurisdiction and the Order has to be set aside.

6. Mr.Sharath Chandran also fairly submitted that the Tahsildar exceeded his jurisdiction. However, his stand is that since other civil proceedings are pending respondents 4 to 10 will establish their right in the pending matters.



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6. Heard both sides and perused the materials available on record. By consent of both parties, these writ petitions are taken up for final disposal at the admission stage itself.

7. In a suit filed by the daughters of the Mannarpillai in O.S.No.28 of 1998, it was specific stand in the pleading that there was a family arrangement, however, the same was not reduced into writing. Throughout the evidence also, the same stand has been taken. Ultimately, First Appellate Court has found that the property orally allotted to the daughters have been exhausted by way of sale. It is categorically held that there was no written document evidencing the oral partition. This has been confirmed by this Court in S.A.No.1149 of 2006. That being the factual position and concluded by the Court, now the impugned order has been passed as if the the Courts have upheld the written instrument of oral instrument. This, in fact, is against the judgment of this Court. The Tahsildar has exercised such power as if he is an Appellate Court to the High Court. On the face of it, that order cannot be sustained in the eye of law. When the rights have already been conclusively determined by the Civil Court and reached finality, no further interpretation whatsoever can be given by the revenue authorities or any other authorities in respect of the same issue.



WP.Nos.13712 & 13718 of 2024

8. Such view of the matter, the impugned order stands quashed and the original patta stood in the writ petitioners is restored. It is also stated that subsequent to all these proceedings, other suits are also filed for declaration in O.S.Nos.310 of 2013, 290 of 2015 which has also been rejected and against the rejection order appeal is also filed in A.S.No.25 of 2022. Any decision with regard to the change of patta shall be based only on the determination of the rights of the parties in the Civil Court not by the revenue authorities.

9. Accordingly, these writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

26.06.2024

dhk

Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

To,

1. The District Revenue Officer
Chengalpattu, Chengalpattu District

2. The Revenue Divisional Officer

<https://www.mhc.trn.gov.in/judis>



WP.Nos.13712 & 13718 of 2024

Tambaram, Chengalpattu District

3. The Tahsildar

Vandalur, Chengalpattu District

N. SATHISH KUMAR, J.

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WEB COPY



WP.Nos.13712 & 13718 of 2024

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