



W.P.No.25800 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 26.02.2024

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

**W.P.No.25800 of 2023 and
W.M.P.No.25237 of 2023**

A.Kumar

... Petitioner

Versus

1. The District Collector,
Cuddalore District,
Cuddalore – 607 001.
2. The District Revenue Officer,
O/o District Revenue Officer,
Cuddalore District,
Cuddalore – 607 001.
3. The Revenue Divisional Officer,
O/o Revenue Divisional Officer,
Cuddalore District, Cuddalore – 607 001.
4. The Tahsildar,
Cuddalore Thaluk Office,
Cuddalore District,
Cuddalore 607 001.

5. V.Rani

...Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus calling for the records of the first respondent in Na.Ka.No.V3/35058/2020 dated 28.10.2021 and quash the same and to direct the first respondent to cancel the patta granted in favour of the fifth respondent.

For Petitioner : M/s.M.Muthu Yazhini

For Respondents : Mr.T.Arunkumar
Additional Govt. Pleader for RR1 to 4

Mr.SP.Yuvaraj for R5

ORDER

This writ petition has been filed to quash the impugned order of the first respondent in Na.Ka.No.V3/35058/2020 dated 28.10.2021 and to direct the first respondent to cancel the patta granted in favour of the fifth respondent.

2 Learned counsel for the writ petitioner submitted that the writ petition purchased an agriculture land to an extent of 29 cents and cultivating the said land, but the fifth respondent and her relatives restricted him to reach his agricultural land by encroaching the only common path/road in Survey



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No.120/4 (Old Survey No.258/3) leading to his land. It is to be noted that the respondent was issued with patta bearing patta No.1857 to an extent of 0.18 ares in the said common path. Therefore the petitioner filed an application before the third respondent to cancel the patta. The petitioner also obtained information regarding classification of the land and it was found that the land was classified as Oodai and in the “A” Register it was classified as Tharisu. All the above facts were placed before the first and third respondents and without considering the same, the first respondent upheld the rejection order of the third respondent.

3 Learned counsel for the fifth respondent would submit that the fifth respondent has been in possession of the land for more than 35 years and it is not Oodai and this Court considering the period of possession of the land by the fifth respondent may reject the prayer of the writ petitioner.

4 Heard both sides and perused the materials available on record.

5 This Court by an order dated 05.02.2024 directed the official respondents to produce the original documents – 'A' Register/Settlement Register/Inam Register, prior to UDR and subsequent to the UDR, change of classification, issuance of patta as it now stands and the present



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classification/Adangal Register and with all the relevant original files along with FMB.

6 Accordingly the above documents have been produced and this court while perusing the same, it is clear that the assignment land is originally classified as Oodai, which is a channel for carrying water and it cannot be encroached by any other person. This Court and the Hon'ble Supreme Court time and again reiterated that water bodies should not be re-classified and should not be encroached by anyone. But, the third respondent issued assignment patta in favour of the fifth respondent.

7 In view of the above reasons, the writ petition shall stand allowed. The assignment patta issued by the third respondent in favour of the fifth respondent in Vellakarai Village, Cuddalore District, is hereby quashed. Consequently connected miscellaneous petition is closed. No costs.

8 The Chief Secretary to the Government of Tamilnadu, is directed to find out, who was the Tahsildar, during the relevant period of time and who issued the assignment patta in favour of the fifth respondent, and take action against the erred officer and file Action Taken Report before this Court.



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5. The Chief Secretary,
Government of Tamilnadu.



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P.VELMURUGAN, J.,

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