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W.P.Nos.28538 of 2017 & 965 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2024

CORAM :

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition Nos.28538 of 2017 & 965 of 2019
and W.M.P.Nos.30673 of 2017 & 1072 & 1076 of 2019

Writ Petition No.28538 of 2017

Manjuladevi @ Manjula

... Petitioner

Vs.

- 1.The Government of Tamil Nadu,
Rep. by its Principal Secretary,
Department of Land Revenue,
Secretariat, Fort St.George,
Chennai – 600 009.
- 2.The District Collector,
Collector Office,
Tiruvallur,
Tiruvallur District.
- 3.The District Revenue Officer,
Revenue Department, Tiruvallur,
Tiruvallur District.
- 4.The Revenue Divisional officer,
Ponneri, Ponneri Taluk,
Tiruvallur District.
- 5.The Tahsildar,
Ponneri,
Ponneri Taluk,

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Tiruvallur District.

6.The Zonal Deputy Tahsildar,
Sholavaram,
Ponneri,
Ponneri Taluk,
Tiruvallur District.

7.The Village Administrative Officer,
Aathur Village,
Sholavaram,
Ponneri Taluk,
Tiruvallur District.

8.Munirathinam

7.Malliga

8.Chamundeswari

... Respondents

Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Mandamus directing the fifth respondent to restore the patta No.204 in favour of the petitioner by modification/cancelling the patta Number: 5283 granted in favour of the respondents 8 to 10, for the Survey No.39/2-measuring an extent of Acres 12.77 cents, in Survey No.49/13 measuring an extent of 0.26 cents, in Survey No.49/6 measuring an extent of Acre 1.22 cents, in Survey No.92/5 measuring an extent of 0.51 cents of land, situated at Aathur village, sholavaram, Ponneri Taluk, Tiruvallur District, further direct the 8 to 10 respondents to work out their remedy before the Civil Court as per order dated 28.03.2017 passed by the Revenue Divisional Officer/4th respondent.



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For Petitioner : M/s.R.Poornima,
for Mr.R.Venkatesulu

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For Respondents 1 to 7 : M/s.R.L.Karthika,
Government Advocate

For Respondents 8 to 10 : Mr.A.Ilaya Perumal

Writ Petition No.965 of 2019

1.R.Munirathinam
2.Malliga
3.Chamundeeswari

... Petitioners

Vs.

1.The Government of Tamil Nadu,
Rep. by its Principal Secretary,
Department of Land Revenue,
Secretariat, Fort St.George,
Chennai – 600 009.

2.The District Collector,
Collector Office,
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Tiruvallur District.

3.The District Revenue Officer,
Revenue Department,
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Tiruvallur District.

4.The Revenue Divisional officer,
Ponneri Revenue Division,
Ponneri,
Tiruvallur District.

5.The Tahsildar,



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Ponneri Taluk,
Ponneri,
Tiruvallur District.

6.The Zonal Deputy Tahsildar,
Sholavaram,
Ponneri Taluk,
Tiruvallur District.

7.The Village Administrative Officer,
Aathur Village,
Sholavaram,
Ponneri Taluk,
Thiruvallur District.

8.Manjuladevi @ Manjula ... Respondents

Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorari calling for the records of the fourth respondent in his proceedings in Na.Ka.786/2017/A1 dated 28.03.2017 and quash the same, consequentially direct the 8th respondent to approach the Civil Court to prove her claim as per the proceeding of the fifth respondent in Na.Ka.463/2017/B1 dated 21.02.2017.

For Petitioners : Mr.A.Ilaya Perumal

For Respondents 1 to 7 : M/s.R.L.Karthika,
Government Advocate

For Respondent 8 : M/s.R.Poornima
for Mr.R.Venkatesulu

COMMON ORDER



W.P.Nos.28538 of 2017 & 965 of 2019

W.P.No.28538 of 2017:

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The relief sought by the petitioner in this writ petition is to direct the fifth respondent to restore the patta No.204 in favour of the petitioner by modification/cancelling the patta Number: 5283 granted in favour of the respondents 8 to 10, for the Survey No.39/2-measuring an extent of Acres 12.77 cents, in Survey No.49/13 measuring an extent of 0.26 cents, in Survey No.49/6 measuring an extent of Acre 1.22 cents, in Survey No.92/5 measuring an extent of 0.51 cents of land, situated at Aathur village, sholavaram, Ponneri Taluk, Tiruvallur District, further direct the 8 to 10 respondents to work out their remedy before the Civil Court as per order dated 28.03.2017 passed by the Revenue Divisional Officer/4th respondent.

2. The case of the petitioner is that the property in dispute belongs to petitioner's maternal grand parents viz., Sampath Iyer and Mrs.Janagavally Thayarammal and they executed a registered settlement deed in Doc.No.1538 of 1973 dated 11.06.1973 in the joint names of petitioner and her sister Ms.Bharathi. Based on the registered settlement deed, the Tahsildar, Ponneri issued a joint patta No.223 dated 09.05.1978 in favour of the petitioner and her sister. Later, the joint patta No.223 has been re-numbered as joint patta



No.204. This being so, the petitioner's sister Ms.Bharathi expired on 24.11.2013. Thereafter, the respondents 8 to 10 executed a power of attorney to one P.Thiyagarajan in Doc.No.7657 of 2016 dated 29.08.2016, without producing any relevant documents to show that they are the owners of the property and without verifying these documents, the fifth respondent registered the aforesaid power of attorney.

2.1. After executing the fraudulent power of attorney, the respondents 6 to 8 approached the revenue department and made a representation dated 14.02.2017 before the Tahsildar, Ponneri for grant of joint patta stating that they are the legal heirs of Ramamoorthy's second wife. The said Ramamoorthy is the father of the petitioner. But, the fourth respondent/The Revenue Divisional Officer rejected the same by directing them to approach the Civil Court to obtain the same. Suppressing the rejection of joint patta, the respondents 8 to 10 applied for joint patta through online and obtained the same vide patta No.5283. Thereafter, the respondents 9 & 10 relinquished their share and executed release deed in favour of the eighth respondent viz., Munirathinam vide Doc.No.5173 of 2017 dated 01.09.2017. Hence, the petitioner made a representation dated 23.10.2017 before the

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fourth respondent to take action against the respondents 8 to 10 for executing a fraudulent documents, however, no action was taken. Aggrieved over the same, the petitioner has come forward with the present writ petition to restore the joint patta No.204 by cancelling the illegal patta No.5283 granted in favour of the respondents 8 to 10.

3. Learned counsel for the petitioner submitted that the respondents 8 to 10 have been issued with a joint patta No.5283 by the fifth respondent without giving any notice or opportunity of personal hearing to the petitioner. Hence, the aforesaid patta may be cancelled.

4. Learned Government Advocate appearing for the respondents 1 to 7 has submitted a counter affidavit dated 18.12.2017 on behalf of the fifth respondent. For better appreciation, the relevant paragraphs of the counter affidavit is extracted hereunder:

“ 4. It is submitted that the respondents 8 to 10 by suppressing the orders passed by the 4th respondent on 28.03.2017 in respect to patta transfer of the survey numbers 39/2, 49/6, 49/13, and 92/5, they have submitted on - line application on 03.06.2017 for the mutation of the above survey



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numbers for which orders were already passed by the 4th respondent. As there is no provision in the computerized chitta for blockings the survey numbers for which objections have been received or orders for non transfer of patta have been passed to avoid mutation of the patta entries subsequent there to and the on-line petition of the respondents 8 to 10 was recommended by the 7th respondent officer of Athur Village who was unaware of the orders passed by the 4th respondent on 28.03.2017 the followings mutation of patta entries have been erroneously ordered by the 6th respondent in T.R.2017/0103/01/039412 TR on 03.06.2017 in the midst of multivarious works.

S.No.	Classification	Extent (in Hectare)	Patta No and Name of the Pattadar
39/2A	Dry	5.11.00	5283
92/5A	Dry	0.19.50	1.Manjulamal D/o P.N.Ramamoorthy
49/6	Dry	0.49.50	2.Munirathinam S/o P.N.Ramamoorthy
49/13	Dry	0.10.50	3.Malliga W/o Elumalai 4.Chamundeeswari W/o Nagarajan

5. It is also submitted that as mentioned in supra the 8th respondent by suppressing the orders passed by the 4th respondent, has submitted on- line application on 15.09.2017 for effecting sub-division in respect of S.no.39/2A of Athur Village. As the field surveyor was unaware of the orders passed by the 4th respondent, he has recommended for effecting the sub-divisions in S.no.39/2A and accordingly the following patta



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transfer orders have been erroneously passed by the 5th respondent in respect of S.No.39/2A by effecting the following sub divisions in T.R. 2017/01/04/000060 SD on 28.09.2017.

S.No.	Classification	Extent (in Hectare)	Patta No and Name of the Pattadar
39/2A I	Dry	0.05.48	Patta No.5283 1.Manjulamal D/o
39/2D	Dry	0.68.93	P.N.Ramamoorthy
39/2F	Dry	0.23.48	2.Munirathinam S/o P.N.Ramamoorthy
39/2G	Dry	1.23.20	3.Malliga W/o Elumalai 4.Chamundeeswari W/o Nagarajan
39/2E	Dry	1.47.58	Patta No.5330 Ramamurthy
39/2C	Dry	1.42.33	Patta.5299, Ramamurthy

6. It is submitted that on filing of this writ petition by the petitioner, the above patta transfer files are verified also the correctness of the orders. It is now found that the patta transfer orders in respect of patta No.5283, 5299 and 5300 have been passed erroneously due to suppressing the orders passed by the 4th respondent on 28.03.2017 by the respondent 8 to 10. Hence, show cause notice dt:07.12.2017 is now issued to the respondents directing them to offer their explanation as to why the erroneously patta transfer orders made in respect of patta no.5283, 5299 and 5300 due to mistaken of facts cannot be cancelled and the patta restored to its previous position in 5th respondents memo no Re.5793/B1/2017 Dated-07.12.2017. Further the respondents and the petitioner are also called on to attend enquiry before the 5th respondent on



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22.12.2017. *In order to meet out the principle of natural justice and opportunity of the personal hearing, the issue of the above notice dated 07.12.2017 by the 5th respondent is a must.*

7. *It is submitted that on completion of the enquiry posted on 22.12.2017, necessary proposals for the cancellation of the erroneously issued in patta no.5283, 5299 and 5300 and for the restoration of the survey numbers involved in the above pattas to their previous position to the 4 respondent under the provisions of the Revenue Standing Order 31(8).*

8. *With respect to averments in para 5 and 8 to 10 (a) to (i), it is humbly submitted that the pattas erroneously issued due to mistaken of fact to the respondent 8 to 10 in patta no.5283 and to the respondent 8 in patta no. 5299 and 5300 and due to suppressing of the fact of the orders passed by the 4th respondent on 28.03.2017 by the respondent 8 to 10 are not patta pass book issued under section 3(1) of the Tamil Nadu Patta Pass book Act, 1983 read with rule 5 of the Tamil Nadu Patta pass book rules 1987. They are the extracts of the Village account No. 10 (1) Chitta. Hence the provision of the Tamil Nadu Patta Pass book Act.1983 and the Tamil Nadu Patta pass book rules 1987 do not attract the patta No.5283, 5299 and 5300 issued erroneously due to mistaken of facts, However the 5th respondent has since initiated for cancellation process by issuing a show cause and enquiry notice in Re.no.5793/31/2017 dt:07.12.2017 to the respondent 8 to 10 and due follow up action in this issue will be pursued till the restoration of the patta of the survey numbers in dispute to its previous position.”*



5. Heard the learned counsel on either side and perused the materials available on record.

6. Since, the fifth respondent has initiated action to cancel the Patta No.5283 by issuing a show cause and enquiry notice to the respondents 8 to 10, this Court directs the fifth respondent to conduct a detailed enquiry by affording an opportunity of personal hearing to the petitioner as well as private respondents/interested parties if any, to take into consideration all the relevant documents submitted the parties in regard to the subject matter property and pass appropriate orders on merits, in accordance with law thereby following the above principles of natural justice within a period of twelve weeks from the date of receipt of a copy of this order.

7. This writ petition is disposed of with the aforesaid observation and direction. No costs. Consequently, connected miscellaneous petition is also closed.

W.P.No.965 of 2019:

In view of the above order passed by this Court in writ petition



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No.28538 of 2017, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes/No

Speaking Order : Yes/No

Neutral Citation : Yes/No

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J.SATHYA NARAYANA PRASAD,J.

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