



W.A.No.226 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2024

CORAM :

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR**

**and**

**THE HONOURABLE MR.JUSTICE K. KUMARESH BABU**

**W.A.No.226 of 2022**

P.Indiran

... Appellant

Vs.

1. The District Revenue Officer,

Kancheepuram District, Chengleput.

2. The Tahsildar, Thirukazhukundram Taluk,  
Kancheepuram District, Chengleput.

3. Balakrishnan

4. Shanmugam

... Respondents

**PRAYER:** Writ Appeal filed under Clause 15 of Letters Patent Act against the order passed by this Court in W.P.No.22811 of 2010, dated 27.10.2017.

For Appellant : Mr. Muthukumar

for M/s Paul Paul

For Respondents : Mr.V.Manoharan, Addl.Govt.Pleader

for respondents 1 and 2

No appearance for Respondents 3 and 4



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## JUDGMENT

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(Order of the Court was delivered by D.KRISHNAKUMAR, J.)

This intra-court appeal has been filed by the writ petitioner, as against the order of the Writ Court, declining his claim to quash the impugned orders passed by the District Revenue Officer, Kancheepuram District as well as the Tahsildar, Thirukazhukundram Taluk and also to restore the patta in respect of the land in survey no.277/17, measuring about 0.27 cents at Vengambakkam Village, Thirukazhukundram Taluk, Kancheepuram District to his name.

2. The brief facts leading to the filing of the present appeal is as follows.

According to the appellant/ writ petitioner, he is the owner of the property, described as stated supra, vide registered sale deed dated 20.11.2007 and he had obtained patta in his name in Patta No.864 on 07.10.2008. It is contended by the appellant that, originally the property belonged to one Venugopal Naicker and he had 5 daughters and one son and to resolve the family dispute, he sold the property to his daughter, viz., Janaki Ammal, mother of the appellant. Thereafter, Janaki Ammal Sold



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the property to one A.K.Sameem, vide sale deed dated 07.07.2006, who in turn, sold to the appellant on 20.11.2007.

2.1. As per the direction of this Court in W.P.No.26588/2008, filed by the respondents 3 and 4, who claimed ownership and transfer of patta in their name in the property in Survey Nos.245/9, 245/10, 245/11 and S.No.277/17 with total extent of 0.64 cents, the first respondent has passed the impugned order dated 07.07.2010. Based on the above order, the second respondent herein had transferred the patta in the name of one A.Murugapa Naicker, father of the respondents 3 and 4, vide order dated 17.09.2010. Challenging the above orders, the appellant had filed writ petition before this court and the same was disposed of by the learned single Judge, holding that the appellant is entitled to get patta in his name, through a civil suit and the above order is impugned before this court by way of intra court appeal.

3. The learned counsel for the appellant submitted that the Revenue authorities have no power to transfer the patta, especially, when there is a rival claim about the title of the property. He also submitted that, originally



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patta was granted in favour of Venugopal Naicker, maternal grandfather of the appellant, in the year 1986 itself and after his demise, patta was transferred to the names of his successors, who lawfully purchased the properties. Accordingly, after purchase of the property, patta was granted to the appellant in the year 2008 itself. It is contended by the learned counsel for the appellant that, no opportunity was granted to the appellant, before passing an adverse order by the District Revenue Officer, which is against the principles of natural justice. Further more, the revenue officers, without having any authority has passed the impugned orders and hence to quash the above orders, the appellant had filed the writ petition. However, without considering the facts in proper perspective, the learned Single Judge has dismissed the writ petition and hence, the order of the writ court is liable to be set aside.

4. Heard the learned counsel appearing for the appellant and the learned counsel appearing the respondents 1 and 2. Despite names have been printed in the cause list, none appeared for the respondents 3 and 4.

5. Here in this case, the appellant has claimed title and ownership of



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the disputed property. Admittedly, based on the impugned order passed by the District Revenue Officer, Kancheepuram, the concerned Tahsildar, had cancelled the patta, stood in the name of the appellant and transferred the same to the name of one A.Murugappa Naicker, father of the respondents 3 and 4. In such circumstances, we are of the opinion that grant of patta or cancellation of patta in favour of any of the parties will not confer any title in respect of the immovable property and the title and ownership must be established independently by the respective parties by submitting their documents and adducing their evidence before the competent court.

6. At this juncture, the learned counsel for the appellant/writ petitioner submitted that, with regard to the ownership and title of the disputed property, a suit in O.S.No.17/2019 is pending before the Principal Subordinate Court, Chengalpattu.

7. In such circumstances, it is essential to note the, in similar circumstances, following the decision of the *Hon'ble Supreme Court in R.Perumalsamy* case a Division Bench of this Court, in which one of us is



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member (D.KRISHNAKUMAR.J) has passed the order in W.A.No.937 of 2014, dated 06.07.2023, in which, it has been held thus.

" 6. The learned counsel for the first respondent/writ petitioner submitted that he is having a clear title over the property. However, the appellant herein had filed a suit in O.S.No.100/2020 on the file of the Subordinate Court, Ponneri with regard to the title of the property and the same was dismissed. Against which, he has filed an appeal in A.S.No.279/2021 before the Principal District and Sessions Judge, Tiruvallur and the same is pending. Therefore, he seeks for dismissal of the appeal.

7. At this juncture, the learned counsel for the appellant fairly submitted that the issues involved in the matter shall be decided only by the competent civil court.

8. The learned counsel for the first respondent/writ petitioner has also not controverted to the above said submission.

9. At this juncture, it is useful to rely upon the decision of the Hon'ble Supreme Court of India in *M/s. Edelweiss Asset Construction Company Limited vs. R.Perumalsamy and others, reported in AIR 2020 SC 3688*, in which it is held as follows:

"19. Under the Tamil Nadu Patta Pass Book Act 1983 and the Tamil Nadu Patta Pass Book Rules 1987, the Tahsildar is not empowered to adjudicate upon a 'title dispute'. A combined reading of Section 14 and Rule 4(4) indicates that where there exists a dispute with respect to ownership of a land between parties with respect to a patta entry, the correct procedure to be adopted is to approach a civil Court having competent jurisdiction. The entry records will be updated on the basis of the decree of the civil court upon adjudication."



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10. In the light of the above said decision of the Apex Court, it is clear that the remedy with regard to the patta and title of the property are only before the Civil Court. Therefore, we are of the view that the patta already granted in favour of the first respondent herein is subject to the outcome of the decision of the civil Court."

8. In the light of the above said decision of the Apex Court as well as the Division Bench of this court, with regard to the patta and title of the property, the parties have to approach only before the Civil Court. Therefore we are of the view that, there is no reason to interfere with the order passed by the learned Single Judge and the transfer of patta in the name of A.Murugappa Naicker, father of the second and third respondent herein, is subject to the outcome of the decision of the civil Court.

9. Accordingly, this writ appeal is dismissed and the order passed by the learned Single is upheld. No costs. The concerned civil Court shall decide the suit independently without being influenced by any of the observation made by this Court as well as the impugned orders passed by the first respondent.

**(D.K.K.J.)      (K.B.J.)**

**06.06.2024**

Internet: Yes/No  
Index : Yes/No  
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To  
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Kancheepuram District, Chengleput.
2. The Tahsildar, Thirukazhukundram Taluk,  
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and  
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