



W.P(MD)No.2105 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.02.2024

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.2105 of 2024

N.Vasantha

..Petitioner

Vs

1.The District Collector,
Office of District Collector,
Theni District,
Theni.

2.The District Revenue Officer,
Office of District Revenue Officer,
Theni District,
Theni.

3.The Tahsildar,
Periyakulam Taluk,
Periyakulam,
Theni District.

4.Kuppusamy

5.Raja

6.Kumar

7.Lakshmi

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus,to call for the records of the second respondent's impugned order in Na.Ka.No.



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3303/2023/T5(Ni.Si1), dated 20.12.2023 and quash the same as devoid of merits, consequently direct the third respondent to grant patta for the petitioner's property in Survey No.2147/4 and extent of 1620 sq.fts in Devathanapatti Bit II, Periyakulam Taluk, Theni District based on his title Registered Sale Deed Document No.315/2015, dated 02.02.2015 within the period stipulated by this Court.

For Petitioner	:Mr.A.Haja Mohideen
For R1 to R3	:Mr.D.Gandhiraj Special Government Pleader

ORDER

The petitioner has filed the present writ petition seeing to quash the impugned order in Na.Ka.No.3303/2023/T5(Ni.Si1), dated 20.12.2023 passed by the second respondent and to direct the third respondent to grant patta for the petitioner's property in Survey No.2147/4 and extent of 1620 sq.fts in Devathanapatti Bit II, Periyakulam Taluk, Theni District based on his title Registered Sale Deed Document No.315/2015, dated 02.02.2015 within the period stipulated by this Court.

2.Heard Mr.A.Haja Mohideen, learned counsel appearing for the petitioner, Mr.D.Gandhiraj, learned Special Government Pleader appearing for the respondents 1 to 3.



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3. Considering the nature of the order proposed to be passed, protecting the interest of the respondents 4 to 7, notice to the respondents 4 to 7 is dispensed with.

4. The case of the petitioner is that the petitioner's husband worked as a Commissioned Officer in the Indian Army for 32 years and retired as a Captain. The subject property is the ancestral property of her husband. In the family arrangement, the subject land was allotted to her husband and he is in peaceful possession and enjoyment of the subject property. Since her husband worked in Army certain internal arrangements were made in the family in respect of shares of her husband and his brother. Accordingly, the subject property was given to her husband's uncle Balakrishnan in the family partition document No. 852/1967. Subsequently, the said Balakrishnan died intestate, so his wife Smt.B.Saroja inherited the same and she is in peaceful possession and enjoyment of the same. Thereafter, as per the internal family arrangement, the said Saroja gave General Power to the petitioner's husband through a Registered General Power of Attorney Document No.33/1992, dated 16.06.1992 in respect of the subject property. Based on that, the petitioner's husband gave the subject property in Survey No.2147/4 to an extent of 1620 sq.fts in Devathanapatti Bit II, Periyakulam Taluk, Theni District to the



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petitioner through registered sale deed document No.315/2015, dated 02.02.2015. Now, the petitioner is in peaceful possession and enjoyment of the subject property. In the meantime, all of a sudden, the respondents 4 to 7 were trespassed into the subject property and trying to encroach the subject property. They have no right, title and interest in the subject property. In this regard, the petitioner has sent several petitions, but the official respondents have not taken any action. Hence, the petitioner filed a direction petition in CrI.O.P.(MD)No. 13567 of 2022 for necessary protection. This Court, by order dated 27.07.2022 directing the police officials to consider the petitioner's representation, dated 02.07.2022. Further, the petitioner filed writ petition in W.P(MD)No.16501 of 2022 seeking to direct the first respondent to direct the third respondent to grant patta for her property in Survey No.2147/4 to an extent of 1620 sq.ft in Devathanapatti Bit II, Periyakulam Taluk, Theni District. This Court by order dated 28.08.2022 directed the second respondent to enquire into the petition mentioned representation and pass final orders on merits. Thus, the third respondent has declined to grant patta and instructed the petitioner to approach the Civil Court, if she is having right. Therefore, the petitioner has filed a petition before the Revenue Divisional Officer, Periyakulam and the Revenue Divisional Officer directed the petitioner to approach the second respondent for necessary relief vide communication in Na.Ka.No.9032/2022/A3 dated



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28.12.2022. The petitioner has filed a revision petition before the second respondent on 21.01.2023. Based on the revision petition, the second respondent issued summons to the parties and conducted an enquiry for one year. Subsequently, in a hurried manner, the second respondent passed impugned order in Na.Ka.No.3303/2023/T5(Ni.Si1) dated 20.12.2023 stating that during the period of grant of Natham patta, the patta No.730 for Survey No.2147/15 an extent of 0.00.19 Sq.M was granted in the name of father of the fourth respondent, the Patta No.3196 for Survey No.2147/16 to an extent of 0.00.29 Sq.M., was granted in the name of father of the 6th respondent, the Survey No.2147/17 is in possession and the patta will not be granted to the petitioner since the period of grant of Natham patta was expired and appeal period was also expired. Thus, the second respondent rejected the petitioner's revision petition. Therefore, he filed the present writ petition to quash the proceedings of the second respondent, dated 20.12.2023.

5. The learned counsel for the petitioner would submit that the impugned order is in violation of principles of *audi alterem partem* since the petitioner was not fully heard and the reasons assigned by the second respondent is non-est in the eye of law and there is no explanation that under what basis, on which document, the mutation of revenue records were made in the name of the



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respondents 4 to 7. He would further submit that the petitioner's husband worked in Army, so they were forced to be away from their native place and also from the subject property. Since the petitioner's husband sacrificed his entire young life to safeguard our India by letting his blood and sweat, so he was not able to maintain the subject property. Taking advantage of the same, the respondents 4 to 7 without having any rights trespassed in to the subject property and encroached the same by constructing house and hence prayed for allowing the writ petition.

6. The learned Special Government Pleader appearing for the respondents 1 to 3 would submit that as per G.O(Ms) No.409, dated 02.07.2008 Revenue SSI (1) Department for withdrawing the second revision powers on transfer of Registry cases he has cited the judgment pronounced by the Hon'ble High Court, Chennai in W.A.No.1342/1994 and C.M.P.No.15872/1994, dated 26.10.1994 in which he has pointed out that the Revenue forums have no jurisdiction to decide either the right or title of land in patta transfer cases and it is for the Civil Courts to decide such issues. As difficulties are experienced in dealing with the Second Revision cases, the Special Commissioner and Commissioner of Land Administration has pointed out that numerous appeals pave the way for issues being dragged endlessly and the Special Commissioner



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and Commissioner of Land Administration having been over burdened with multifarious issues relating to lands spread over the entire state. A further revision to the Commissioner of Land Administration can be made within 30 days from the date of receipt of the order and the orders of the Commissioner of Land Administration are final. Hence, the petitioner has to approach the competent Civil Court to establish her rights and proceed further in the manner known to law.

5. In view of the submission made by the learned Special Government Pleader appearing for the respondents 1 to 3, this writ petition is dismissed and the petitioner is at liberty to approach the competent Civil Court to establish her rights and proceed further in the manner known to law. No Costs.

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Index : Yes/No
Internet: Yes/No
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WEB COPY

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V.BHAVANI SUBBAROYAN,J

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