



W.P(MD)No.6714 of 2020

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 09.01.2024

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

W.P(MD)No.6714 of 2020

and

W.M.P.(MD)Nos.6081 and 6082 of 2020

V.Sathiyamoorthy

... Petitioner

**Vs.**

1.The District Revenue Officer,  
Trichy.

2.The Revenue Divisional Officer,  
Trichy.

3.The Tahsildar,  
Thiruvarambur Taluk,  
Trichy.

4.Tamilselveli

... Respondents

**Prayer** : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of the 1st respondent in Ni.Mu.A6/33713/2019 dated 22.04.2020 and quash the same as arbitrary and illegal.



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For Petitioner : Mr.P.Ganapathi Subramanian

For Respondents : Mr.K.S.Selvaganeshan,  
Addl. Government Pleader for R1 to R3.  
Mr.K.S.Kathiravan for R4.

### **ORDER**

Heard both sides.

2.The case on hand pertains to 728 sq. ft. of land in New S.No.379/8 in Navalpattu Village. The husband of the fourth respondent filed O.S.No.2000 of 2005 on the file of the Principal District Munsif Court, Tiruchiappalli seeking declaration that the said property belongs to him and that patta issued in respect the said land in favour of the writ petitioner's father should be declared as null and void. The suit was decreed on 17.01.2013 in the following terms:-

*“This suit came up before me for final hearing on 9.1.2013 in the presence of Mr.K.Pulendran, Advocate for plaintiff and of Mr.A.Parthasarathy, Advocate for 1 to 4 defendants, and 5, 6 defendants called absent set exparte, upon hearing the arguments of both sides, having stood over for consideration till this day, this court doth order and decree,*

*1. that the patta no.1566 in respect of the suit property in survey no.379/8, issued by the 6<sup>th</sup> defendant in the name of late*



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*vadivel Karuppattiar is hereby declared as null and consequentially the 6th defendant is hereby directed by way of mandatory injunction to take necessary steps in order to measure the suit property on the basis of field map book, other revenue records and original document produced by the plaintiff and defendants in support of their claim and to issue the patta to those who can produce such documents. Time for mandatory injunction is three months.*

*2. that till such revenue officials' measurement based on the documents, the both parties are not entitled to claim any possession over the suit property.*

*3. that the suit be and the same is hereby dismissed in other aspects.*

*4. that it is hereby ordered as no order as to cost.”*

3.Pursuant to the said decree, the writ petitioner as well as the fourth respondent submitted petitions before the jurisdictional Tahsildar. The Tahsildar was not in a position to grant relief. The Tahsildar felt that the material was utterly scarce to come to any positive conclusion. Challenging the stand of the Tahsildar, the parties moved the Revenue Divisional Officer, Trichy. The Revenue Divisional Officer, Trichy also endorsed the stand taken by the jurisdictional Tahsildar. Thereafter, the parties went before the District Revenue Officer, Trichy who vide proceedings dated 22.04.2020 directed



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issuance of patta in favour of the fourth respondent and her children.

Challenging the same, the present writ petition came to be filed.

4.After hearing both parties, I came to the conclusion that the issue will have to be necessarily resolved only by the jurisdictional Civil Court. When there are serious disputed claims and contentious facts have been thrown up for consideration, in the very nature of things, the revenue authority cannot embark upon any adjudicative exercise. Of course, I will not blame the first respondent for having passed the impugned order. He had merely gone by the direction issued by the jurisdictional Civil Court. Since both the parties have not chosen to question the decree dated 17.01.2013 made in O.S.No.2000 of 2005 on the file of the Principal District Munsif Court, Tiruchirappalli, I will not be justified in restoring the *status quo ante*. In other words, the revenue record will not reflect the name either of the parties. That does not mean that the Government can claim any right thereon. The land in question will remain categorized as “held over”. In other words, patta will be issued in the name of that person who succeeds before the jurisdictional Civil Court.

5.Liberty is given to the writ petitioner as well as the fourth respondent to file a proper suit before the jurisdictional Civil Court. Since the suit is going to



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be instituted by either of the parties only pursuant to the order of this Court, the earlier decree made in O.S.No.2000 of 2005 on the file of the Principal District Munsif Court, Tiruchirappalli will not come in the way. In other words, if the fourth respondent files the civil suit, the petitioner herein cannot plead limitation or *res judicata* . I further make it clear that burden will lie equally on both the parties. Patta will be issued in favour of a particular person only if he is able to get positive declaration from the jurisdictional Civil Court and not otherwise. I make it clear that I have not gone into the merits of the matter.

6.This writ petition is allowed accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

**09.01.2024**

NCC : Yes/No  
Index : Yes / No  
Internet : Yes/ No  
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To:-

- 1.The District Revenue Officer,  
Trichy.
- 2.The Revenue Divisional Officer,  
Trichy.
- 3.The Tahsildar,  
Thiruvarambur Taluk,  
Trichy.



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**G.R.SWAMINATHAN, J.**

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