



W.P.(MD) No.14838 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.08.2024

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.14838 of 2021
and
W.M.P(MD)No.11737 of 2021

Chitra

.. Petitioner

Vs.

1.The Revenue Divisional Officer,
Illuppur, Pudukottai District.

2.The Tahsildar,
Kulathur Taluk,
Pudukottai District.

3.Nagammal

.. Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings of the 1st respondent in Mu.Mu.No.2577/2017/A1 dated 26.07.2021 and quash the same and consequently direct the respondents 1 and 2 herein restore the patta No. 921 for an extent of o.17. In Survey No.40/16 in Muthukadu Village, Kulathur Taluk, Pudukottai District.



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For Petitioner :Mr.T.Pon Ramkumar
For R1 & R2 :Mr.B.Saravanan
Additional Government Pleader

ORDER

This writ petition is filed challenging the impugned proceedings of the first respondent in Mu.Mu.No.2577/2017/A1 dated 26.07.2021 and quash the same and consequently to direct the first and second respondents to restore the patta No.921 to an extent of 0.17.5 in Survey No.40/16 in Muthukadu Village, Kulathur Taluk, Pudukottai District.

2.The petitioner would submit that the land in question measuring an extent of 0.35.0 ares comprised in S.No.40 of 16, in Muthukadu Village, Kulathur Taluk, Pudukottai District, was purchased by her mother-in-law, the third respondent herein, under a sale deed, dated 08.06.1994. On 01.03.2010, the third respondent executed a settlement deed in favour of the petitioner's husband viz., Karuppiah, in respect of 0.17.5 ares. The property was thereafter resurveyed as S.No.40/16A and patta was granted in favour of her husband. Thereafter, on 15.04.2013, her husband Karuppiah, had executed a settlement deed in favour of the



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petitioner and she has been in possession and enjoyment of the same.

Pursuant to which, she constructed a house and is residing therein and patta has been mutated in her name. The third respondent has created a lot of trouble to the petitioner and her husband and also filed a suit in O.S.No.199 of 2015 before the District Munsif Court, Keeranur, for declaration and recovery of possession and to declare the settlement deed dated 15.04.2013 executed by her husband in her favour is invalid one.

3.The petitioner would further submit that in the said suit, the third respondent had admitted the knowledge of patta having been mutated in favour of the petitioner. While so, the third respondent has filed a petition before the first respondent Revenue Divisional Officer, who is not a competent authority, under the Patta Passbook Act, to transfer patta in her name. The first respondent, who has no jurisdiction to entertain the application has issued a notice to the petitioner to appear for an enquiry on 08.08.2019. The petitioner had appeared before the first respondent and no enquiry was conducted. After the commencement of enquiry, the third respondent had withdrawn the said suit and the order impugned



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came to be passed by the first respondent cancelling the patta in the name of the petitioner and also ordered for transferring the patta in the name of the third respondent. Hence, the petitioner is before this Court.

4.Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 and 2.

5.In the course of argument, the learned counsel for the petitioner had produced a copy of the judgment in O.S.No.58 of 2021 passed by the District Munsif, Keeranur, which was filed by the petitioner herein against the third respondent, for declaration that she is the owner of the suit schedule property and for injunction. The said suit was decreed in favour of the petitioner by judgment and decree dated 24.01.2022 and no appeal is filed against the said judgment. Therefore, the petitioner's title to the property has been declared by the civil Court and the unilateral cancellation of the settlement deed executed by the third respondent by the first respondent was held to be invalid.



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6.As per Section 10 of the Patta Passbook Act, (hereinafter referred to as the 'Act'), if a modification is required in respect of the entry in the patta pass book, an application has to be made before the Tahsildar. But, the third respondent has sought such a modification before the first respondent, instead of filing an application before the Tahsildar, who is the competent authority. That apart, Rule 12 of the Act contemplates that an application for modification has to be made within 90 days from the date of acquisition of right with the power being granted to the Tasildar to condone the delay for sufficient reason has given up to 90 days.

7.In the instant case that the third respondent was aware of the grant of patta in favour of the petitioner is clearly evident from the suit filed by her in the year 2015. However, she has approached the first respondent in the year 2021. The first respondent was very much aware about the pendency of the suit, despite which he has proceeded to pass orders.

8.The learned Single Judge of this Court, in the judgment reported in **(2012) 3 CTC823/T.R.Dinakaran-Vs-The Revenue Divisional**



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Officer, Aruppukottai, and 9 others], had set out the scheme of the grant of patta, the authority competent to grant patta and the appellate authority above them. The learned Judge has observed in the said judgment that the only provision which is available for modifying the entries is Section 10 of the Act, and it clearly sets out the Authority before whom the application has to be made. However, the learned Judge has observed that Section 10 of the Act does not empower the Tahsildar to cancel the patta already granted, as the power of the Tahsildar to modify the entry is restricted to the reason given therein, viz., by reason of the death of the pattathar; or by reason of the transfer of interest in land; or by reason of any other subsequent change in circumstances.

9.If the grievance is that the patta has been wrongly issued in favour of another person and the person claims title, remedy is only to file a suit for declaration that the entry should be cancelled and consequently, for a mandatory injunction for grant of patta.
(T.R.Dinakaran cited supra)



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10. In the light of the above, the impugned order has to necessarily be set aside as it is not only suffer from lack of jurisdiction, but also on account of the fact that the the first respondent himself has proceeded to pass orders.

11. In the result, this writ Petition is allowed and this Court directs the first and second respondents to restore the patta No.921 to an extent of 0.17.5 in Survey No.40/16 in Muthukadu Village, Kulathur Taluk, Pudukottai District, to its original position prior to its cancellation after issuing notice to the petitioner and the third respondent and in the light of the judgment passed in O.S.No.58 of 2021 and pass orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

19.08.2024

NCC : Yes/No
Index : Yes/No
Internet : Yes



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P.T.ASHA, J.
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To

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