



W.P.(MD)No.15756 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 03.07.2024

DELIVERED ON : 31.07.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

W.P.(MD)No.15756 of 2021

and

W.M.P.(MD)Nos.12703, 12704 and 15075 of 2021

C.Selvam  
represented by power agent  
C.Rajkumar

... Petitioner

Vs.

1.The Tahsildar,  
Tiruppur Taluk,  
Sivagangai District.

2.P.Kanimozhi

... Respondents

**PRAYER :** Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records relating to the impugned order passed by the first respondent in his proceedings in D.R.:2021/0103/23/116322TR, dated 13.08.2021 and quash the same as illegal.



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For Petitioner : Mr.M.Mohamed Zamil  
for M/s Ajmal Associates

For Respondents : Mr.V.Om Prakash  
Government Advocate  
for R.1

: Mr.P.R.Prithiviraj  
for R.2

### **ORDER**

The Writ Petition is directed against the order dated 13.08.2021 passed by the first respondent, changing the patta in favour of the second respondent from the petitioner.

2. The petitioner has filed the present writ petition through his Power Agent. The case of the petitioner is that the land in S.No.177/1 at Kottaieruppu Post, Tiruppatur Taluk, Sivagangai District having an extent of 1 Acre 5 cents originally belonged to Narayana Konar and stood in his name in Patta NO.41, that the said Narayana Konar died prior to the settlement leaving behind his wife one Silambayee and his son Chinnakkaruppan Konar as his legal heirs, that the settlement patta



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was issued in the name of Silambayee in Patta No.80, that the said Silambayee died intestate in 1986 and her only son Chinnakkaruppan Konar has become the owner of the property and the patta was changed in his favour in Patta No.163, that the said Chinnakkaruppan Konar died intestate leaving behind his wife and two sons including the writ petitioner and the patta in respect of the property in dispute stands in the joint names of the petitioner and his brother and that they have been in possession and enjoyment of the property.

3. It is the further case of the petitioner that the second respondent along with one Karthikeyan approached the petitioner demanding to sell the suit property, but the same was rejected, that the second respondent has then attempted to disturb their peaceful possession and enjoyment of the property and hence, the petitioner has filed a suit in O.S.No.72 of 2020 claiming permanent injunction and the same is pending on the file of the District Munsif Court, Thirupattur, that when the petitioner has verified the revenue records, he came to know that the patta was changed in the name of the second respondent, vide proceedings of the first respondent dated 13.08.2021, that the first respondent, without issuing



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notice to him, without conducting any sort of enquiry, has passed the impugned order, that since the impugned order came to be passed in total violation of principles of natural justice, the same is legally unsustainable and that therefore, the petitioner was constrained to file the present writ petition.

4. It is evident from the records that when the above petition was moved before this Court, this Court has granted an order of interim stay for a particular period. The second respondent has then filed an application to vacate the interim stay and in the affidavit filed in support of the vacate stay petition, they have taken a defence that the second respondent's father Rangarajan has purchased the property in dispute and also the land in S.No.177/3 measuring an extent of 1 Acre 7 Cents in the same village of Kottaieruppu Village, vide sale deed dated 29.09.1982 from Chinnakaruppan – father of the writ petitioner, that the said Chinnakaruppan had executed the above said sale deed for himself as well as his minor children including the petitioner, that the second respondent's father had been in possession and enjoyment of the property since the date of purchase, that after the death of Chinnakaruppan on



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31.08.2008, the petitioner along with his mother Valliammai and brother Nagaraj in order to grab the property fraudulently executed two sale deeds dated 11.04.2016 and 26.04.2016 in favour of one Malaichamy – father-in-law of the said Nagaraj, that the second respondent's father, after coming to know about the said transactions had preferred a complaint before Tiruppatur Town Police Station and subsequently, the writ petitioner along with his mother and brother cancelled the said sale deeds vide cancellation deed dated 10.06.2016, that the second respondent's father Rangarajan has executed a settlement deed dated 14.06.2016 settling the property in favour of his daughter and since then the second respondent has been in possession and enjoyment of the said property.

5. It is the further case of the second respondent that her father has lodged a complaint before the District Registrar, Karaikudi to take action against the writ petitioner and others with respect to the above said fraudulent transactions, that the writ petitioner along with others appeared before the District Registrar for enquiry and stated that the fraudulent sale deeds have already been cancelled and that the District



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Registrar, after recording their submissions, dismissed the complaint preferred by the second respondent's father, that the writ petitioner's name was wrongly entered in the revenue records with respect to the subject property as Patta No.823, that the second respondent made an application before the first respondent to rectify the error and issue patta in her favour, that the first respondent, after perusing all the documents and after getting report from the concerned VAO issued patta in favour of the second respondent in Patta No.942, vide order dated 13.08.2021.

6. The first respondent has filed a counter affidavit reiterating the stand taken by the second respondent.

7. No doubt, as rightly pointed out by the learned Counsel for the petitioner, there is no materials to show that notice was given to the petitioner before passing the impugned order. The contention of the petitioner that the impugned order came to be passed in violation of the principles of natural justice appears to be correct. But a close scrutiny of records and the stand taken by the respondents including the official respondent, as rightly contended by the Government Advocate, no notice



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was warranted in the facts and circumstances of the case on hand. It is evident from the records that the petitioner's father Chinnakaruppan has executed a sale deed in favour of one Rangarajan – father of the second respondent, on 29.09.1982. Neither the petitioner's father Chinnakaruppan nor Chinnakaruppan's legal heirs including the petitioner have challenged that the said sale deed dated 29.09.1982 was obtained by fraud or coercion or by any other unlawful means or that it is a sham and nominal document.

8. It is pertinent to note that the petitioner along with his mother and brother have executed two sale deeds in respect the property in dispute on 11.04.2016 and 26.04.2016 in favour of one Malaichamy. The contention of the second respondent that the said Malaichamy is none other than the father-in-law of the petitioner's brother Nagarajan, is not specifically denied or disputed. As rightly contended by the learned Counsel for the second respondent, the petitioner, his mother and brother have then executed two cancellation deeds on 10.06.2016 cancelling the sale deeds dated 11.04.2016 and 26.04.2016 executed by them in favour of the said Malaichamy.



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9. It is the specific case of the second respondent that her father, after coming to know about the sale transactions, has preferred a complaint before the police and that therefore only, the above said cancellation deeds came to be executed. Moreover, as rightly pointed out by the learned Counsel for the second respondent, in the enquiry before the District Registrar, Karaikudi conducted in pursuance of the petition given by the second respondent's father, the petitioner and the said Malaichamy have appeared and informed the District Registrar that the sale deeds vide document Nos.930/2016 and 1039/2016 came to be cancelled vide document Nos.1402/2016 and 1403/2016 and also taking note of the statement given by the petitioner, his brother Nagarajan and mother Valliammai, the District Registrar, by observing that nothing survives for further adjudication, dismissed the petition vide order dated 13.03.2017.

10. No doubt, as pointed out by the learned Counsel for the petitioner, the petitioner has filed a civil suit in O.S.No.72 of 2020 against the second respondent and one Karthikeyan claiming permanent



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injunction restraining the defendant and their men from interfering with the plaintiff's (writ petitioner) peaceful possession and enjoyment of the property in dispute. In the plaint, the petitioner has nowhere whispered about the execution of the sale deeds by himself, his brother and mother and the subsequent cancellation of the same and the enquiry conducted by the District Registrar and the dismissal of the petition in the plaint. In the plaint, as rightly contended by the learned Counsel for the second respondent, the petitioner has depicted the second respondent as a stranger to the suit property by alleging that the second respondent along with the said Karthikeyan having failed in their attempt to purchase the suit property, have been attempting to disturb the plaintiff's peaceful possession and enjoyment of the suit property. More importantly, as rightly pointed out by the learned Counsel for the second respondent, the petitioner in the affidavit filed in support of the present writ petition also has nowhere whispered about the above aspects and thereby he has approached this Court with unclean hands. As rightly contended by the learned Counsel for the second respondent, the above petition came to be filed with an ulterior motive to extract something if possible.



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11. Considering the above, this Court has no hesitation to hold that the impugned order changing patta in favour of the second respondent cannot be found fault with. Consequently, this Court concludes that the Writ Petition is devoid of merits and the same is liable to be dismissed.

12. In the result, the Writ Petition is dismissed. Consequently, the connected Miscellaneous Petitions are also dismissed. There shall be no order as to costs.

**31.07.2024**

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

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To  
The Tahsildar,  
Tiruppatur Taluk,  
Sivagangai District.



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**K.MURALI SHANKAR,J.**

**SSL**

PRE-DELIVERY ORDER MADE IN

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