



W.P.(MD) No.11191 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.06.2024

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.11191 of 2018

and

W.M.P.(MD) No.10220 of 2018

Pushparani

... Petitioner

Vs.

1.The District Revenue Officer/
Addl. District Magistrate,
Madurai District, Madurai.

2.The Tahsildar,
Thirupparankundram Taluk,
Thirunagar, Madurai District.

3.S.Alagarsamy

4.P.Rajagopal

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the first respondent in his proceedings in Pa.Mu.No.14194/2016/G5 dated 24.04.2018 which was served on the petitioner on 10.05.2018 and quashing the same and consequently directing the first respondent to grant patta in favour of the petitioner in respect of the property comprised in Pula No.49/6B1



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measuring about 0.11.5 Ares (28 ½ cents) situated in Thottiapatti, Valayankulam inner Circle, Madurai District, within a time frame as fixed by this Court.

For Petitioner : Mr.B.Prahalad Ravi
For R1 & R2 : Mr.S.P.Maharajan
Special Government Pleader
For R3 : Mr.S.Muniyandi

ORDER

The petitioner has challenged the impugned order dated 24.04.2018 bearing reference Pa.Mu.No.14194/2016/G5 passed by the first respondent.

2. By the impugned order dated 24.04.2018, Patta No.650 issued in favour of the fourth respondent, petitioner's vendor, has been cancelled and restored in the names of R.P.Alagar, C.Alagar and A.Subba Naicker whose names apparently appeared in the Revenue Records prior to the UDR exercise in 1986.

3. The petitioner claims that the petitioner purchased the subject property in Survey No.49/6B1 measuring an extent of 28 ½ cents from



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and out of total extent of 2.01 Acres in Survey No.49/6. The case of the petitioner is that the land in question stood in the name of one K.Solaimalai who was issued with Patta No.236 under the UDR Scheme. It is submitted that after the demise of K.Solaimalai, a fresh patta was issued in favour of his son Arumugam *vide* Patta No.76 and that in the patta, the land was stated to be Natham land.

4. It is further submitted that said Arumugam sold the property to the fourth respondent on 22.02.2011 who was issued with Patta No.650 which has now been cancelled by the first respondent *vide* impugned order dated 24.04.2018 after the petitioner purchased the property from the fourth respondent on 13.09.2011.

5. It is the case of the petitioner that the petitioner made an application for issuance of a fresh patta in his name on 07.11.2011. It is submitted that the petitioner purchased the property measuring an extent of 28 ½ cents out of 2.01 Acres in Survey No.49/6.

6. It is further submitted that the cancellation of the patta issued to the petitioner's vendor, namely the fourth respondent, and the restoration



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of the *status quo anti* vide the impugned order dated 24.04.2018, was without any provocation and without application by any of the persons, including the third respondent. It is therefore submitted that the impugned order is liable to be interfered with.

7. That apart, it is submitted that the first respondent has erroneously held that the petitioner has sought to rectify the mistake during the UDR period with respect to S.No.49/6B1, whereas, the third respondent has alone made objection by sighting mistake in UDR.

8. It is further submitted that the third respondent has made an objection long after the UDR exercise was made, without any documentary evidence to show that his predecessors are Alagiri Naicker, Sankarappa Naicker and Subba Naicker and the subject property belonged to them. The patta before the UDR in respect of the land comprised in S.No.49/6 measuring an extent of 2.01 Acres stood in the names of R.P.Alagar, C.Alagar and A.Subba Naicker and that after UDR exercise, the said property stood divided into 6 parts and pattas were granted in favour of 4 persons namely, R.Subbiah, R.Periya Alagarsamy, K.Solaimalai and S.Alagar Samy as detailed below:-



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<i>Sl. No.</i>	<i>Survey No.</i>	<i>Extent (in Ares)</i>	<i>Patta No.</i>	<i>Name of the Pattadar</i>
1	49/5E	0.20.5	205	R.Subbiah
2	49/6A1	0.12.5	72	R.Periya Alagarsamy
3	49/6B1	0.11.5	236	K.Solaimalai
4	49/11	0.13.5	72	R.Periya Alagarsamy
5	49/13	0.11.5	48	S.Alagarsamy
6	49/17	0.11.5	438	1. R.Alagarsamy 2. R.Subbiah
		0.81.0		

9. It is submitted that the petitioner has purchased the land measuring an extent of 0.11.5 Ares (28 ½ cents) from the fourth respondent who purchased the same from one Arugmugam. The said Arumugam is the son of the said K.Solaimalai who was issued with Patta No.236 after land in S.No.49/6 was sub-divided into various divisions as mentioned above.

10. This Writ Petition is opposed by the learned Special Government Pleader for the first and second respondents by placing reliance on the decision of the Principal Bench of this Court in **Kuppuswami Nainar Vs. The District Revenue Officer, Thiruvannamalai and others**, 1995 (1) MLJ 426 and **Chockkappan and others Vs. The State of Tamil Nadu, represented by the Special Commissioner and Commissioner of Land Administration, Chennai**



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and others, 2004 (1) CTC 136, wherein, it has been held that in the event where a dispute relating to the title is involved, the Writ Court cannot entertain the Writ Petition and adjudicate the same as a Civil Court.

11. A reference is also made to the decision of the Division Bench of this Court rendered in **M.Purushothaman Vs. The District Revenue Officer and others**, in W.A.(MD) No.1490 of 2022, dated 15.12.2022. It is therefore submitted that there is a cloud of doubt as to correctness of the title and therefore, the petitioner should be relegated to workout his remedy before the competent Civil Court.

12. By way of rejoinder, the learned counsel for the petitioner has placed reliance on the decision of the Principal Bench of this Court in **Vishwas Footwear Company Ltd. Vs. The District Collector, Kancheepuram and others**, dated 28.07.2011 in W.A.No.1275 of 2006.

13. I have considered the arguments advanced by the learned counsel for the petitioner, the learned Special Government Pleader for the first and second respondents and the learned counsel for the third respondent.



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14. There is no dispute that the petitioner is claiming rights over the property by way of Sale Deed dated 13.09.2011 executed by the fourth respondent in favour of the petitioner. The fourth respondent himself was issued with the Patta No.650. The fourth respondent had purchased the property from Arumugam who was issued with Patta No.76. The said Arumugam is said to be the son of the said K.Solaimalai who was issued with Patta No.236.

15. Patta No.236 and other Pattas have been issued in favour of 4 persons by sub-dividing the land in S.No.49/6 after UDR exercise was undertaken by the Settlement Commission under the UDR Scheme. There were several mistakes that crept in during the implementation of the UDR, as a result of which, pattas of several persons were wrongly cancelled or diluted by issuance of fresh pattas. This mistake has sought to be corrected by the impugned order passed by the first respondent after the petitioner approached the first respondent for issuance of fresh patta in his favour after he purchased the property from the fourth respondent on 13.09.2011.



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16. Therefore, the petitioner has to establish a clear title over the property before the Civil Court. This Court cannot intervene in disputes like the present case. The Authorities have merely cancelled the pattas that were granted under the UDR Scheme after 1986, by restoring the pattas in the name of the persons in whose names the patta stood earlier. Therefore, this Writ Petition is liable to be dismissed.

17. It is made clear that no patta will be granted to the third respondent unless the third respondent establishes his rights over the property. The possession of the property, if the petitioner is already in possession, shall not be disturbed except in accordance with law.

18. This Writ Petition stands dismissed with the above observations. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order

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