



W.P.(MD)No.21542 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 07.08.2024

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THE HONOURABLE **MS.JUSTICE P.T.ASHA**

W.P.(MD)No.21542 of 2015
and M.P(MD) No.1 of 2015

Panneerselvam

... Petitioner

Vs.

1.The District Revenue Officer, Dindigul.

2.The Tahsildar,
Oddanchathiram Taluk,
Dindigul District.

3.Shanmugavel

4.Rukmani

5.Anantharaj

6.Vijayaraj ... Respondents
(R4 to R6 *suo motu* impleaded vide order dated 11.08.2023 made in W.P.
(MD)No.21542 of 2015)

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorarified Mandamus, to to call for the records pertaining to impugned order of the first respondent in Na.Ka.No. 21331/2014/Aa6 dated 21.09.2015 and quash the same as illegal, consequently to direct the respondents 1 & 2 to cancel the patta in Patta No. 775 issued in favour of the 3rd respondent in respect of Survey No. 377/3 to an extent of 31 cents situated at oddanchathiram.



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For Petitioner : Mr.D.Venkatesh
For R1 & R2 : Mr.B.Saravanan,
Additional Government Pleader
For R3 : Mr.N.Dhamodaran
For R4 & R5 : Mr.R.Govindaraj

ORDER

The writ petitioner has invoked extraordinary jurisdiction of this Court seeking orders to quash the impugned order passed by the first respondent dated 21.09.2015 by issuing a writ of Certiorarified Mandamus and consequently to direct the official respondents to cancel the patta in patta No.775 issued in favour of the third respondent in respect of the land in S.No.377/3 to an extent of 31 cents situated at Oddanchathiram.

2.To appreciate the grievance of the petitioner, it would be, apposite, to refer to the facts set out in the affidavit filed in support of the writ petition. The petitioner would submit that in the year 1993, a compromise had been entered into between his grandfather, namely, Palani Gounder and the grand mother of the third respondent, namely,



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Karupayeeammal, in a suit in O.S.No.44 of 1932 and a compromise decree was passed on 23.03.1933. Under this compromise, both the petitioner's grandfather and the third respondent's grandmother had got an equal right over the property subject matter of the writ petition. During the re-settlement, joint patta in patta No.342 was issued in the name of Chellamuthu Gounder, Kuppusamy Gounder (third respondent's father), Karuppusamy (petitioner's father), Rengasamy, Palaniammal and Annamal, in respect of the properties comprised in S.Nos.377, 378 & 379. On the basis of the aforesaid patta, Chitta had also been issued by the proceedings of the second respondent dated 07.10.1992.

3.In this background, it appears that the third respondent had made an application to the second respondent contending that by virtue of the registered partition deed dated 14.09.1992, he derived title over some of the properties including S.No.377 to an extent of 48 $\frac{3}{4}$ cents and sought to have the patta changed in his name. The second respondent without verifying the basic revenue records and without notice to the joint pattathars, had passed an order granting a separate patta to the third respondent in patta No.775. The petitioner had immediately objected to the same by filing an application before the second respondent on



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22.11.2010. It was the contention of the petitioner that S.No.377 has been sub divided as S.No.377/1,2 & 3 during UDR period and the total extent in S.No.377/3 is 31 cents, in which, the petitioner had right to an extent of 15 ½ cents, by virtue of the compromise decree in O.S.No.44 of 1932. It was also contention of the petitioner that the patta has been wrongly issued in the name of the third respondent and 31 cents was being used as pathway by the family members, for access to their respective properties.

4. When the application was made, the petitioner was unaware of the fact that the change in patta had been made only on account of the application made by the third respondent. On 02.08.2011, the second respondent had sent a communication to the petitioner stating that since the petitioner was seeking a rectification of an error made during UDR scheme, he had to approach the first respondent by making necessary application with details of the opposite parties and producing the Chitta. Therefore, on 13.12.2011, the petitioner had made an appeal to the first respondent, reiterating the contention that he had placed before the second respondent. The third respondent had taken out a defence that the compromise decree was fake one and therefore, the claim had to be



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rejected. The second respondent on 25.11.2014 had submitted a report before the first respondent stating that on going through the documents of the both petitioner and the third respondent, patta in respect of property in S.No.377/3 was stood in the name of Kuppusamy and Chellamuthu and the possession was also with the third respondent. The first respondent directed the petitioner to establish his right through a civil Court, which is the order, the petitioner is challenging in this writ petition. However, it is the contention of the petitioner that while holding so, the first respondent had commented upon the decree in O.S.No.44 of 1932 and thereby, exceeding his limit. Despite directing the parties to approach the civil Court, the second respondent had not chosen to revert the patta to the original position namely prior to issuing the patta in the name of the third respondent. Therefore, the petitioner is before this Court.

5.Heard the learned counsel on either side, no counter has been filed by the respondent including the contesting the respondent. However, they have addressed arguments.



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6.The grievance of the petitioner is that the orders granting patta in favour of the third respondent has been issued without notice to the persons whose names have been mutated in the revenue records in patta No.342. The petitioner enclosed copies of the patta as well as the Chitta, in respect of the properties in S.No.377/3, 378 and 379, which has been issued in the name of the six persons Chellamuthu Gounder, Kuppusamy Gounder, Karuppusamy, Rengasamy, Palaniammal and Annammal. The third respondent appears to have made an application to the second respondent to transfer patta in his favour in respect of lands comprising 9 acres and 51 cents in various survey numbers including S.Nos.377, 378 and 379. He would seek change of patta on the basis of registered partition deed entered into between himself and his father on 14.09.1992. It appears that the second respondent without notice to the persons whose names found in the revenue records at that point of time, has proceeded to issue patta in favour of the third respondent. However, it is seen that there is serious dispute between the parties with reference title to the properties and the same has to be necessarily be resolved only by the civil Court. Therefore, orders passed by the first respondent is correct insofar as it relates to referring the parties to the civil Court. However, the first respondent by commenting upon the compromise



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decree in O.S.No.44 of 1932 has exceeded his jurisdiction. Further, once he has found that there was serious dispute with reference to the title to the property, he ought to have cancelled the patta, which was granted to the third respondent and ought to have reverted the patta back to its original position, that is, in the names of those six persons as stated supra.

7. Therefore, the order of the Thasildar to this extent is set aside and the second respondent is directed to revert back the patta to its original position; ie., prior to the change in favour of the third respondent. However, it is made clear that the civil Court shall proceed to dispose the suit, total un-influenced by the orders now issued by this Court and the observations of the first respondent.

8. In the result, this writ petition is disposed of. Consequently, connected miscellaneous petition is closed. No costs.

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P.T.ASHA.J.

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To

- 1.The District Revenue Officer, Dindigul.
- 2.The Tahsildar,
Oddanchathiram Taluk,
Dindigul District.

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