



W.P.(MD)No.21479 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 09.07.2024

DELIVERED ON : 06.09.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

W.P.(MD)No.21479 of 2021
and
W.M.P.(MD)No.18043 of 2021

1.P.Annakodi

2.R.Pitchai

... Petitioners

(P.2 is impleaded vide Court
order dated 28.06.2021 in
W.M.P.(MD)No.8989 of 2024

Vs.

1.The District Revenue Officer,
Madurai.

2.The Revenue Divisional Officer,
Madurai.

3.The Tahsildar,
Madurai South Taluk,
Madurai District.

4.Rajagopal



W.P.(MD)No.21479 of 2021

5.Balasubramanian

... Respondents

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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 dated 03.11.2021 in Ne.Mu.No.127/2016/G5, passed by the first respondent and quash the same.

For Petitioners : Mr.J.Barathan

For Respondents : Mr.V.OM Prakash
Government Advocate
for R.1 to R.3

: Mr.H.Lakshmi Shankar
for R.4 and R.5

ORDER

The Writ Petition is directed against the order dated 03.11.2021, passed by the first respondent for removing the petitioner's name as pattatharar in respect of the land in S.No.169/6 of Thanakkankulam Village, Thiruparankundram Taluk and to restore the patta in favour of Pitchai Pandithar.



W.P.(MD)No.21479 of 2021

WEB COPY

2. The petitioner's case is that the property measuring an extent of 18 cents in Re.Survey No.169/6 of Thanakkankulam Village, Madurai South Taluk was purchased by the petitioner vide sale deed dated 28.12.2011 from one Murugesan, S/o Rasu Thevar, that the said Murugesan had purchased the property vide sale deed dated 17.06.2008 from Sourashtra Girls Vidhya Sangam, that one M.R.Swamy who purchased the subject property, vide sale deed dated 20.03.1946 from one Muthu Thevar and his sons, gifted the said property in favour of Sourashtra Girls Vidhya Sangam, vide gift deed dated 06.09.1950, that before the purchase of the said property by the petitioner's vendor Murugesan, he found that the revenue records for Survey No.169/6 had been mistakenly mutated in the name of M/s Sitalakshmi Mills Limited, that the said Mills has given a letter to the third respondent on 04.02.2008 stating that they have no right or title over the subject property and hence, the second respondent passed an order dated 11.02.2011 transferring the patta for the said property in Survey No. 169/6 from the name of M/s Sitalakshmi Mills Limited to the name of the petitioner's vendor Murugesan, that after the purchase by the petitioner,



W.P.(MD)No.21479 of 2021

WEB COPY

the patta was transferred in favour of the petitioner in Patta No.4039 and she had been paying kists, that the respondents 4 and 5 are the sons of Pitchai Pandithar and they have filed a petition before the first respondent as if the revenue records originally stood in the name of their deceased father Pitchai Pandithar, as if a mistake had occurred during the UDR survey and as if the revenue records standing in the name of Pitchai Pandithar had been wrongly mutated in the name of Sitalakshmi Mills Limited and hence, they wanted correction of UDR entries, that the first respondent had issued an enquiry notice dated 29.08.2016 for the petitioner's appearance on 07.09.2016, that the petitioner appeared and filed counter statement with documents, that the first respondent without considering any of the documents of title and the order dated 11.02.2011 passed by the second respondent, has passed the impugned order dated 03.11.2021 directing the third respondent for removal of the petitioner's name from the revenue records and restoration of the same in the name of Pitchai Pandithar and that therefore, the petitioner was constrained to approach this Court invoking Article 226 of the Constitution of India.



W.P.(MD)No.21479 of 2021

3. Pending petition, the petitioner by alleging that she has settled the property in dispute in favour of her husband Pitchai who in turn sold some portions of the properties to the third parties, has filed a petition in C.M.P.(MD)No.8989 of 2024 for impleadment of her husband as second petitioner and the said petition came to be allowed and the petitioner's husband has been impleaded as second petitioner.

4. The defence of the respondents 4 and 5 is that the petitioner's vendor said to have purchased the property from Sourashtra Girls Vidya Sangam on 17.06.2008 and the said Society claimed that the said property was gifted to them by M.R.Swamy vide gift deed dated 06.09.1950, that the properties conveyed in the gift deed refers only the paimash number and the Sourashtra Girls Vidya Sangam sold the property to the petitioner's vendor Murugesan on 17.06.2008 only referring the survey number without clarifying which paimash number correlates to Survey No.169/6 of Thanakkankulam Village and how the same is traced back, that the sale deed dated 17.06.2008 which is the basis for the writ petition is a fraudulent one created wantonly to grab the property, that in the gift deed executed by M.R.Swamy and the sale deed



W.P.(MD)No.21479 of 2021

in favour of M.R.Swamy, paimash numbers 42, 47 and 65 were mentioned and it was not clarified as to how it correlates to Survey No. 169/6 situated at Thanakkankulam Village, that M/s Sitalakshmi Mills Ltd., sent a communication dated 04.02.2008 to the Revenue Authorities disowning the property in dispute and informed that the property in Survey No.169/6 situated at Thanakankulam Village was wrongly mutated in their name and requested the authorities to reinstate the patta in the name of the real owner, but subsequently on 17.06.2008 the Sourashtra Vidya Sangam sold the property in Survey No.169/6 without clear recitals about paimash number correlation to the petitioner's vendor, that thereafter the patta was mutated to his name influencing the revenue authorities, that Pitchai Pandithar – father of the respondents 4 and 5 purchased the properties in paimash number 298 from one Peyathevar, S/o Peyandi Thevar on 11.11.1948 with proper boundaries and thereafter patta was mutated in the name of the said Pitchai Pandithar vide patta No.160, that the revenue records stood in the name of Pitchai Pandithar for 18 cents in Survey No.169/6 of Thanakkankulam Village as early as on 17.04.1961 at the settlement proceedings, that the revenue records of S.No.169/6 before UDR stood in the name of Pitchai



W.P.(MD)No.21479 of 2021

Pandithar and after UDR it was wrongly mutated in the name of M/s Sitalakshmi Mills Ltd., and that was confirmed by their communication dated 04.02.2008 and in between the Sourashtra Girls Vidya Sangam and the petitioner's vendor Murugesan fraudulently created the document and got the patta mutated in the name of the petitioner's vendor and subsequently sold the said property to the writ petitioner on 28.12.2011 and the patta was said to have mutated fraudulently in favour of the writ petitioner's name and subsequently encumbrances were created through her husband and that the very conduct of the writ petitioner and her husband would go to show that they are trying to grab the property using the paimash numbers confusion.

5. It is the further case of the respondents 4 and 5 that after coming to know about the fraudulent mutations, which was consequent on the error that crept in during the UDR scheme, the fourth respondent made a complaint to the DRO in December 2015 and after enquiry, patta was reinstated as per the revenue records before UDR through the impugned order dated 03.11.2021, that if the petitioner is aggrieved over the order of the DRO, she has to file a suit and establish her right, that mutation



W.P.(MD)No.21479 of 2021

from the name of M/s Sitalakshmi Mills Ltd., to the name of Sourashtra Girls Vidya Sangam was baseless and it cannot be taken advantage in the writ petition and that therefore, the petition is not maintainable and the same is liable to be dismissed.

6. The property in dispute is 18 cents in S.No.169/6 of Thanakkankulam Village, Madurai South Taluk, now in Thiruparankundram Taluk, Madurai District. It is pertinent to note that both the petitioners as well as the respondents 4 and 5 are claiming ownership over the property in dispute through the purchases made by their alleged predecessors in title. According to the petitioners, originally the property in dispute belonged to Muthu Thevar and his sons and one M.R.Swamy purchased the property from the said Muthu Thevar and his sons and subsequently the said M.R.Swamy executed a gift deed in favour of the Sourashtra Vidya Sangam, who in turn sold the property to one Murugesan, who in turn sold the property to the first petitioner, who in turn, during the pendency of the writ petition, settled the property in favour of the second petitioner.



W.P.(MD)No.21479 of 2021

7. According to the respondents 4 and 5, their father Pitchai Pandithar purchased the properties from one Peyathevar, s/o Peyandi Thevar and after the death of their father, they had inherited the properties. No doubt, the petitioners have produced the copies of the sale deed dated 20.03.1946 executed by Muthu Thevar on his behalf and on behalf of his minor sons in favour of M.R.Swamy, gift deed dated 06.09.1950 executed by M.R.Swamy in favour of the Sourashtra Girls Vidya Sangam, sale deed dated 17.06.2008 executed by the Secretary of the Sourashtra Girls Vidya Sangam in favour of Murugesan and the sale deed dated 28.12.2011 executed by the said Murugesan in favour of the petitioner. No doubt, the petitioners have also produced the copies of the sale deed dated 11.11.1948 executed by Peyathevar in favour of Pitchai Pandithar, sale deed dated 25.04.1950 executed by Pitchai Pandithar on his behalf and on behalf of his minor children in favour of Kathayee Ammal and the sale deed dated 03.08.1962 executed by Mahalingam and Kathayee Ammal in favour of Mayandi Thevar.

8. The learned Counsel for the petitioners would contend that even assuming that Pitchai Pandithar has purchased the property in dispute



W.P.(MD)No.21479 of 2021

vide sale deed dated 11.11.1948, he sold the same by executing a sale deed on his behalf and on behalf of his minor sons in favour of Kathayee Ammal dated 25.04.1950 and that therefore, Pitchai Pandithar has left other property to be inherited by the respondents 4 and 5 in S.No.169/6 of Thanakkankulam Village.

9. But the learned Counsel appearing for the respondents 4 and 5 would contend that the petitioner's contention that Pitchai Pandithar had sold the propertied to one Kathayee Ammal in the yar 1950 based on 11.11.1948 sale deed and 25.04.1950 sale deed, is factually erroneous, that the sale deed dated 11.11.1948 refers to paimash number 298 and one item of property purchased by Pitchai Pandithar, whereas the sale deed dated 25.04.1950 by Pitchai Pandithar in favour of Kathayee Ammal refers to six items of properties, out of which, four are covered in paimash number 270 and the remaining two are covered in paimash number 298, that in the very same document, it has been specifically mentioned that the original sale deeds under which these properties were purchased are handed over to the purchasers, that the original sale deeds handed over are sale deeds dated 09.11.1948, 14.11.1948, 07.11.1948



W.P.(MD)No.21479 of 2021

and 05.11.1948 and that therefore, it has become clear that the property purchased under the sale deed dated 11.11.1948 was not sold under the said document. The petitioners have not disputed the above factum specifically and they have not chosen to clarify that the property purchased under the sale deed dated 11.11.1948 alone was sold to Kathayee Ammal on 25.04.1950.

10. It is the specific contention of the respondents 4 and 5 that the revenue records were registered in the name of their father Pitchai Pandithar before the UDR scheme for the property in S.No.169/6 measuring 18 cents. It is admitted by both parties that during the UDR scheme, the patta for the property in S.NO.169/6 came to be issued in favour of M/s Sitalakshmi Mills Private Ltd. It is also not in dispute that M/s Sitalakshmi Mills Private Ltd., has sent a communication dated 04.02.2008 to the Tahsildar, Madurai South Taluk, disowning the property in dispute and informed that the property in Survey No.169/6 situated at Thanakankulam Village was wrongly mutated in their name and requested the authorities to restore the patta in the name of the real owner.



W.P.(MD)No.21479 of 2021

WEB COPY

11. The second respondent, after receiving a report from the Village Administrative Officer, Thanakkankulam, Tahsildar of Madurai South along with letter sent by M/s Sitalakshmi Mills Private Ltd., by holding that since the land in dispute was standing in the name of M/s Sitalakshmi Mills Private Ltd., in the revenue records and since the said M/s Sitalakshmi Mills Private Ltd., has sent a communication disowning their ownership over the subject property, has proceeded to cancel the patta standing in favour of M/s Sitalakshmi Mills Private Ltd., and directed the Tahsildar, Madurai South to issue in favour of the petitioner's vendor – Murugesan. But admittedly, notice was not sent to the respondents 4 and 5 and they were not heard before ever passing the order dated 11.02.2011 by the second respondent.

12. Considering the above, as rightly contended by the learned Counsel for the respondents 4 and 5, the said order of the second respondent cannot be taken advantage of by the writ petitioner. No doubt, the official respondents, despite taking time, have not chosen to file any counter statement. But the learned Government Advocate

12/23



W.P.(MD)No.21479 of 2021

appearing for the official respondents would contend that before UDR, the revenue records stood in the name of Pitchai Pandithar and only during the UDR scheme, patta came to be issued in favour of M/s Sitalakshmi Mills Private Ltd.

13. As rightly contended by the learned Counsel for the respondents 4 and 5, the petitioners have not produced any revenue records standing in the name of the petitioners' vendor or their predecessors in title before UDR scheme. It is pertinent to note that as per “A” settlement register of the year 1961, the land measuring 18 cents in S.No.169/6 of Thanakkankulam Village, stood in the name of R.Pitchai Pandithar. It is not in dispute that the sale deeds of the year 1946 and 1948 and the gift deed of the year 1950 refers to paimash numbers. Admittedly, the petitioners have not produced any materials to show that the present Survey No.169/6 co-relates to the paimash numbers found in their sale deeds of the year 1946 and the gift deed of the year 1950.



W.P.(MD)No.21479 of 2021

14. The first respondent in the impugned order has specifically observed that the land in S.No.169/6 of Thanakkankulam Village stood in the name of Pitchai Pandithar before UDR and at the time of UDR scheme without any change in extent of the property, the patta came to be issued in favour of M/s Sitalakshmi Mills Private Ltd in Patta No.517. As rightly contended by the learned Counsel for the respondents 4 and 5, the second respondent while removing the name of M/s Sitalakshmi Mills Private Ltd., should have restored the patta in favour of Pitchai Pandithar in whose name patta came to be issued prior to UDR scheme, but instead without hearing the legal heirs of Pitchai Pandithar has proceeded to direct the Tahsildar to issue patta in favour of the said Murugesan – the petitioner's vendor.

15. The learned Counsel for the respondents 4 and 5 would submit that patta granted during the settlement proceedings and the entry made in the register pursuant to this settlement proceedings is prima facie document of title and such a patta cannot be cancelled or mutated by the revenue records invoking the provisions of Patta Pass Book and relied on the following decisions:



(i) **1998(2) LW 11 (Kannammal Vs. G.Panchakshara Chetty and 9 others):**

*“It is apparent therefore, that when a ryotwari patta is granted under the provisions of the Act the grantee is conferred new rights, but that will be on the basis of the ryot's previous possession and the landholder's previous title. Considering the object of the Act i.e. Abolition of Zamindari system, and the fact that even the title of the landholders in their private lands is also put an end to and in its place new rights are conferred and that right is. evidenced by a ryotwari patta and no parameters of that right has been prescribed, the new rights can be taken to be nothing but proprietary rights. A duty is cast on the Government to issue ryotwari patta and a ryot is entitled to ryotwari patta under [Section 11](#) and a landholder under [Sections 12 to 14](#), Every patta issued by the Government cannot be said to confer proprietary rights, but ryotwari patta issued under the provisions of the Act, in the circumstances stated above, can be said to confer such rights. Unless ryotwari patta issued is cancelled the holder of the patta must be deemed to have title to the land. Certainly the ryotwari patta is not merely a bill for rent or assessment as stated in some of the judgment including *State OF Madras v. Parisutha Nadar (1961)2 M.L.J. 285.**



W.P.(MD)No.21479 of 2021

..... Therefore under the Rules the limitation for making a claim for patta by the landholder is six months and it has been definitely laid down that no further time will be extended under any circumstances. It is therefore clear that the plaintiffs have lost their right to claim patta under the provisions of the Act. Can this position be obviated by filing a suit for declaration and injunction against the grantee of a patta? I am afraid it cannot be.”

(ii) (1985)4 SCC 10 (State of Tamil Nadu Vs. Ramalinga

Samigal Madam):

“Now turning to the question raised in these appeals for our determination, it is true that [Section 64-C](#) of the Act gives finality to the orders passed by the Government or other authorities in respect of the matters to be determined by them under the Act and sub-section. (2) thereof provides that no such orders shall be called in question in any court of law. Even so, such a provision by itself is not, having regard to the two propositions quoted above from Dhulabhai's case (supra), decisive on the point of ouster of the Civil Court's jurisdiction and several other aspects like the scheme of the Act, adequacy and sufficiency of remedies provided by it etc., will have to be considered to ascertain the precise intendment of the Legislature. Further, having



regard to the vital difference indicated above, in between the two sets of provisions dealing with grant of ryotwari pattas to landholders on the one hand and ryots on the other different considerations may arise while deciding the issue of the ouster of Civil Court's jurisdiction to adjudicate upon the true nature of character of the concerned land. Approaching the question from this angle it will be seen in the first place that s. 64-C itself in terms provides that the finality to the orders passed by the authorities in respect of the matters to be determined by them under the Act is "for the purposes of this Act" and not generally nor for any other purpose. As stated earlier the main object and purpose of the Act is to abolish all the estates of the intermediaries like Zamindars, Inamdars, Jagirdars or under-tenure holders etc. and to convert all land-holdings in such estates into ryotwari settlements which operation in revenue parlance means conversion of alienated lands into non-alienated lands, that is to say, to deprive the intermediaries of their right to collect all the revenues in respect of such lands and vesting the same back in the Government. The enactment and its several provisions are thus intended to serve the revenue purposes of the Government, by way of securing to the Government its sovereign right to collect all the revenues from all the lands and to facilitate the recovery thereof by the Government and in that process, if necessary, to deal with claims of occupants of lands, nature of the



lands, etc. only incidentally in a summary manner and that too for identifying and registering persons in the revenue records from whom such recovery of revenue is to be made. The object of granting a ryotwari patta is also to enable holder thereof to cultivate the land specified therein directly under the Government on payment to it of such assessment or cess that may be lawfully imposed on the land.”

(iii) 1998(1) CTC 630 (Srinivasan and six others Vs. Sri

Madhyarjuneswaraswami and five others):

“15. Further, the mere fact that the orders passed or decisions rendered under these Acts were given finality for the purposes of those Acts or that the issues, which they are obliged or required to be decided, when so decided are ordained to bind the parties to the proceedings or their privies and successors-in-interest applying the principles of res judicata, does not have the effect of ousting the jurisdiction of the Civil Court once and for all. It is by now well settled that even in cases where finality is accorded to any decision or order, there are certain well settled exceptions and proved and existence of such exceptional factors, the Civil Court is entitled to nullify any or all such decisions.

18. For all the reasons stated above, we answer the question referred to the Full Bench in the negative by holding that the jurisdiction of the Civil Court to entertain a



suit for declaration of title and injunction is not barred by reason of the grant of patta under the provisions of Tamil Nadu Act 30 of 1963.”

16. As rightly contended by the learned Counsel for the respondents 4 and 5, the petitioners' predecessors in title have not chosen to challenge the ryotwari patta granted in favour of Pitchai Pandithar and admittedly, they have not filed any suit to declare their title. It is also not in dispute that the first respondent is the competent authority to rectify the mistakes or the errors occurred during UDR survey. The first respondent, considering the main fact that the ryotwari patta came to be issued in favour of Pitchai Pandithar and only during UDR scheme, the same was wrongly mutated in the name of M/s Sitalakshmi Mills Private Ltd., who in turn disowned their ownership over the subject property, has rightly passed the impugned order for restoring the patta in favour of Pitchai Pandithar and as such, the impugned order cannot be found fult with.

17. As rightly pointed out, pending petition, the sole petitioner who filed the writ petition, has settled the property in favour of her



W.P.(MD)No.21479 of 2021

husband – second petitioner, who in turn sold the portions of the property in favour of the three persons. More importantly, the petitioners have taken a stand that subsequent to the settlement in favour of the second petitioner and the sales made by the second petitioner, patta came to be issued in his name as well as the purchasers from him. As rightly contended by the learned Counsel for the respondents 4 and 5, this Court is also at loss to understand as to how pattas came to be issued in favour of the second petitioner and his purchasers, when the first respondent has passed the impugned order for restoring the patta in favour of Pitchai Pandithar. Considering the above, the complaint of the respondents 4 and 5 that the above would exhibit the collusion between the petitioners and the revenue authorities, taking note of the order passed by the second respondent, cannot be rejected as one without any substance

18. As rightly contended by the learned Counsel for the respondents 4 and 5, even according to the petitioners, the second petitioner only retained a portion of the property in dispute, as he has already sold the remaining property to the third parties. Though the first petitioner has sought for impleadment of her husband – second



W.P.(MD)No.21479 of 2021

petitioner, they have not taken any steps to implead the subsequent purchasers of from the second petitioner. Whatever it is, in the impugned order itself, the first respondent has specifically observed that in case if the parties are aggrieved, they are at liberty to approach the competent civil Court. From the above discussion, this Court concludes that the petitioners are not entitled to get the reliefs claimed and as such, the Writ Petition is liable to be dismissed.

19. In the result, the Writ Petition is dismissed. Consequently, the connected Miscellaneous Petition is also dismissed. There shall be no order as to costs. The petitioners are at liberty to approach the competent civil Court, if so advised.

06.09.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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W.P.(MD)No.21479 of 2021

To

WEB COPY

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- 2.The Revenue Divisional Officer,
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W.P.(MD)No.21479 of 2021

K.MURALI SHANKAR,J.

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PRE-DELIVERY ORDER MADE IN

W.P.(MD)No.21479 of 2021

06.09.2024