



W.P.(MD) No.3399 of 2017

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.11.2024

CORAM:

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.(MD) No.3399 of 2017

Jenita Darathy

...

Petitioner

-vs-

1.The District Collector,
Thoothukudi District,
Thoothukudi.

2.The Revenue Divisional Officer,
Thoothukudi,
Thoothukudi District.

3.The Tahsildar,
Tahsildar's Office,
Thoothukudi District.

4.Rajathi

...

Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of mandamus, directing the 3rd respondent to cancel the name of the 4th respondent from the patta having Number 1343, pertaining to the property to the extent of 435 sq.ft. with a building in Survey



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WEB C No.324/5 of Kumarakiri @ Pudukkottai Village, Thoothukudi Taluk, Thoothukudi District, and to restore status quo ante pertaining to the above patta by considering the petitioner's representation, dated 17.02.2017.

For Petitioner : Mr.S.R.Anbarasu

For Respondents 1 to 3 : Mr.D.S.Nedunchezian,
Govt.Advocate.

For Respondent 4 : Mr.S.Kadarkarai

ORDER

The petitioner has filed this Writ Petition for issuance of a writ of mandamus, directing the third respondent to cancel the name of the fourth respondent in Patta Number 1343, pertaining to the property to an extent of 435 sq.ft., with a building in Survey No.324/5 of Kumarakiri @ Pudukkottai Village, Thoothukudi Taluk, Thoothukudi District, and to restore status quo ante pertaining to the said Patta.

2. The petitioner's father-in-law and mother-in-law executed a settlement deed, dated 20.04.2006, regarding the subject property in favour of the petitioner's sons, namely, Andro Griban and Andro Larkin, through the petitioner, their mother, as guardian.



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3. According to the petitioner, the settlement deed was accepted and acted upon. With respect to the property in Survey No.324/5, life interest was reserved by the petitioner's in-laws and with respect to the property in Survey No.331/2, full right was given to the minors through the petitioner, guardian. The petitioner sold the property in Survey No.331/2 to meet the educational and other family expenses, after obtaining permission from the competent court of law, as the property was settled absolutely to the minors under the settlement deed. While so, the petitioner's in-laws unilaterally cancelled the settlement deed vide cancellation deed, dated 06.02.2015, and the same was registered as Document No.363 of 2015 before the Sub-Registrar, Pudukkottai. The petitioner filed W.P.(MD) No.3564 of 2016 on the file of this Court, challenging the unilateral cancellation of the settlement deed. This Court, in W.M.P.(MD) No.3188 of 2016 in W.P.(MD) No.3564 of 2016, by an order, dated 08.03.2016, ordered status quo. In pursuance of the cancellation of the settlement deed, the petitioner's father-in-law executed a Will, dated 06.02.2015, in favour of his daughter, the fourth respondent herein. After the death of the petitioner's father-in-law on 16.03.2016, the fourth respondent approached the third respondent – Tahsildar for grant of Patta in her favour. Though the petitioner objected to the grant of Patta in favour of the fourth respondent by issuance of lawyer's notice to the third



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respondent, the third respondent proceeded to issue Patta to the fourth respondent in Patta No.1343. On 17.02.2017, the petitioner sent a representation to the respondents 1 to 3, requesting them to cancel the Patta issued in favour of the fourth respondent. As no action was taken on the petitioner's representation, the petitioner filed this Writ Petition for the above said relief.

4. Learned Government Advocate, appearing for the official respondents, submitted that after filing of the Writ Petition, the respondents approached the District Court, Thoothukudi, in O.S.No.49 of 2017 for a declaration that the settlement deed executed on 20.04.2006 in favour of the defendants therein was invalid and also for a declaration that the sale deed executed by the defendants 4 and 5 with respect to the second item of the property was not binding on the plaintiffs and for a further direction to the defendants 6 to 8 to vacate the property and hand over the vacant possession to the plaintiffs. The learned Government Advocate further submitted that as the civil suit is already pending with regard to the validity of the settlement deed, the revenue authorities cannot pass orders on the petitioner's representation till the disposal of the civil suit. He relied upon a decision of this Court in W.P.No.13311 of 2022, dated 25.05.2022, in support of his contention.



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5. I have heard the learned counsel for the parties and also perused the material available on record.

6. Admittedly, the suit in O.S.No.49 of 2017 is pending before the District Court, Thoothukudi, with regard to the validity of the settlement deed and for other reliefs claimed therein. Therefore, as rightly contended by the learned Government Advocate, the revenue authorities will have to keep the proceedings pending till the finalisation of the civil proceedings between the parties. This view of mine is fortified by the decision relied upon by the learned Government Advocate in W.P.No.13311 of 2022, dated 25.05.2022. This Court, in the said decision, held as follows :

"7. However, the fact remains that the civil suit filed in O.S.No. 7 of 2020 on the file of the Additional District Court, Tindivanam for partition is pending. The provisions of the Patta Passbook Act stipulates that during the pendency of the civil suit, the revenue authorities cannot decide the dispute. In such circumstances, the revenue authorities are bound to ask the respective parties to approach the Civil Court for appropriate relief or keep the proceedings in abeyance till the crystallization of the rights of the parties before the Competent Civil Court. This being the scope of the provisions of the Patta Passbook Act and when the civil suit is pending before the competent court of law, the revenue authorities are not empowered to conduct an enquiry and pass orders regarding grant of patta, cancellation of patta or mutation of revenue records.



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Only after resolving the civil dispute between the parties, either of the parties is at liberty to approach the competent revenue authorities by filing an application for grant of patta, cancellation of patta or mutation of revenue records. Even the suit for partition is instituted for crystallization of the rights between the parties. Thus, the revenue authorities cannot proceed with the enquiry.

8. In the event of allowing the revenue authorities to decide the application for grant of patta, cancellation of patta or mutation of revenue records, the rights of the parties would be prejudiced and there is a possibility of further confusion or dispute based on such revenue orders.

9. This being the principles to be followed, this Court is inclined to consider the writ petition. Accordingly, the respondents 1 and 3 are directed to keep all the revenue proceedings in abeyance till the finalization of the civil proceedings between the parties. After reaching finality in respect of the rights of the parties, either of the parties is at liberty to approach the competent revenue authority by filing an application for grant of patta, cancellation of patta or mutation of patta, as the case may be, by following the procedures as contemplated under the Act and Rules."

7. In view of the above discussion, this Writ Petition is disposed of, with liberty to the petitioner to prosecute her representation, subject to the



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WEB COPY result of the civil suit. No costs. Consequently, the connected W.M.P.(MD) No. 2766 of 2017 is closed.

19.11.2024

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

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To:

- 1.The District Collector,
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N.MALA, J.

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