



W.A.(MD)No.1517 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.09.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN
AND
THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

W.A.(MD)No.1517 of 2018 &
C.M.P(MD)Nos.10819 & 12029 of 2018

A.R.Thiyagarajan

...Appellant

vs.

1.S.Sumathi

2.The District Revenue Officer,
Sivagangai,
Sivagangai District.

3.The Revenue Divisional Officer,
Ram Nagar, Devakottai,
Sivagangai District.

4.The Tahsildar,
Ram Nagar, Devakottai,
Sivagangai.

5.P.R.Kannan

... Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent Act to review
the order passed in W.P.(MD)No.7566 of 2016 dated 04.10.2018.



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For Appellant : Mr.V.R.Shanmuganathan
for Mr.A.L.Kannan

For Respondents : Mr.S.Meenakshi Sundaram
Senior Counsel
for Mr.B.Muruganathan
for R1
Mr.D.Sachi Kumar
Additional Government Pleader
for R2 to R4
Mr.C.Kishore for R5

JUDGMENT

(Judgment of the Court was delivered by P.VELMURUGAN, J.)

The first respondent herein filed a writ petition in W.P.(MD)No. 7566 of 2016 to quash the impugned order of the second respondent herein in Na.Ka.P1/11919/2013 dated 01.03.2016. The writ Court after giving opportunity to all the parties and after hearing the matter, allowed the writ petition on 04.10.2018 by setting aside the order of the second respondent. Challenging the same, the fourth respondent in the writ petition has filed the present writ appeal.

2. The case of the appellant is that the subject lands are comprised in S.No.C/3-8 situate at Iravuchery Group, Devakottai Town, Sivagangai



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District measuring an extent of 18,056 sq. ft. which is equivalent to 41.4 cents. The Settlement Register for the aforesaid lands stand in the name of M.K.R.Karuppaiah Chettiar, who is the grandfather of the appellant. Without giving any notice to the legal heirs of the settlement pattathar M.K.R.Karuppaiah Chettiar and without any enquiry, patta for the said lands were said to have been granted in favour of one Ramanathan Chettiar on 03.11.1986. The said Ramanatha Chettiar based on that patta claims to have executed three registered sale deeds dated 29.12.1986, first one in favour of Periya Karuppan, second one in favour of Manimegalai and third one in favour of Sivajothi. Thereafter, further sales were claimed to have been done and ultimately, the first respondent herein purchased the lands from the fifth respondent. When, the appellant came to know the same, he immediately approached the third respondent herein for restoration of patta in the name of his grandfather M.K.R.Karuppaiah Chettiar. The third respondent herein dismissed the appeal stating that several sale deeds have been executed and without cancelling them, patta cannot be restored. Challenging that order of the third respondent herein, the appellant filed a revision before the second



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respondent. The second respondent allowed the revision by order dated 01.03.2016 and restored the patta in the name of the original pattathar, the grandfather of the appellant viz., M.K.R.Karuppaiah Chettiar. Challenging the said proceedings of the District Revenue Officer, the first respondent filed the writ petition in W.P.(MD)No.7566 of 2016 before this Court. The learned Single Judge allowed the writ petition by order dated 04.10.2018. Challenging the order of the learned Single Judge, the appellant has filed the present writ appeal.

3.1. The case of the first respondent is that she is the absolute owner of the above mentioned property and she purchased the same from the fifth respondent herein under registered sale deed dated 10.07.2013. Originally the property belonged to one Ramanathan Chettiar s/o. Lakshmanam Chettiar. During the Town Survey made in the year 1974, patta was transferred in the name of Ramanathan Chettiar who was the elder member of his family. Ramanathan Chettiar's father Lakshmanan Chettiar purchased the said property from its erstwhile and lawful owner. Thus, Lakshmanan Chettiar and his successors were in continuous



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possession and enjoyment of the said property and patta was granted in their names. Ramanathan Chettiar sold the aforesaid property on behalf of himself and as power agent of other members of the family under four separate sale deeds dated 29.12.1986. The fifth respondent inherited a portion of the subject property from his parents, purchased a portion of the subject property from one Sivajothi under registered sale deed dated 26.10.2007 and also purchased another portion of the subject property from one Vijayan under registered sale deed dated 24.09.2009. Thus, the fifth respondent became the absolute owner of the subject property and he was in lawful possession and enjoyment of the same. Thereafter, the first respondent purchased the subject property from the fifth respondent under registered sale deed dated 10.07.2013 for a valuable consideration. Therefore, the first respondent is having valid title, right, possession and enjoyment of the subject property through the above sale deed.

3.2. After purchasing the property, the first respondent was informed that the appellant has filed an appeal before the third respondent herein for change of revenue records and that the third



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respondent after enquiry dismissed the appeal by order dated 11.02.2013 stating that the appellant is not entitled to any relief sought for by him.

3.3. Subsequently, the first respondent received a notice from the second respondent herein stating that the appellant has filed a revision before him challenging the order passed by the third respondent dated 11.02.2013. Though the appellant claimed right over the subject property stating that he is the grandson of the settlement pattathar Karuppan @ Karuppiyah Chettiar, he has not produced any document to prove his relationship and his relationship was also questioned before the third respondent. The third respondent considered the entire materials placed before him and dismissed the appeal filed by the appellant. Whereas, the second respondent herein without considering the material evidence, set aside the order of the third respondent and ordered to restore the patta in the name of Karuppan @ Karuppiyah Chettiar and observed that the first respondent has to approach the Civil Court to establish her title. Challenging the same, the first respondent filed a writ petition before this Court and the learned single Judge set aside the order



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of the second respondent herein by order dated 04.10.2018 and allowed the writ petition. Challenging the same, the fourth respondent in the writ petition has filed the present appeal.

4.1. The learned counsel appearing for the appellant would submit that as per Section 13 of Patta Pass Book Act, appeal lies before the Revenue Divisional Officer and as per Section 14 of the said Act, revision lies before District Revenue Officer. Under the provisions of Revenue Standing Orders relating to transfer of Registry, a second revision was earlier provided before the Commissioner of land Administration. The said power of second revision was taken away by the Government Order in G.O.Ms.No.409, Revenue SS1 Department, dated 22.02.2008 and it was made clear that anyone aggrieved by the order of the District Revenue Officer had to approach the competent Civil Court. Though the power of this Court under Article 226 of the Constitution of India is vide, the same may not be entertained if there is an alternative remedy available and factual disputes are involved, Exceptions are the allegations of violations of principle of natural justice



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and lack of jurisdiction. In the instant case, absolutely, there are no such allegations. Therefore, availability of alternative remedy in the form of Civil Suit is a clear bar for entertaining the writ petition. Further, he would submit that there are lots of factual disputes involved in the present case. Both the parties are claiming right over the same property and it requires to be resolved by a Civil Court. Therefore, the writ petition ought not to have been entertained. In support of his submissions, he has placed reliance on the Judgments of this Court in (i) *Vishwas Footwear Company Limited vs. 1.The District Collector, Kancheepuram and others* reported in 2011 (5) CTC 94 and (ii) *Senniyappan vs. 1.The Deputy Tahsildar, Palladam and others* reported in 2005 2 LW 616.

4.2. Further the learned counsel has submitted that admittedly, the settlement patta was in the name of Karuppiyah Chettiar and his name was entered in records even in the year 1960. The Town Survey in the year 1987 also has the name of Karuppiyah Chettiar. The first respondent claims right over the subject property through the patta granted in favour



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of Ramanathan Chettiar in the month of November 1986. However, there is no material and there is no whisper or explanation by the first respondent as to how such transfer of patta was effected. The patta can be transferred only if there is a transfer / sale by said Karuppiyah Chettiar or his legal heirs in the name of Ramanathan Chettiar or his ancestors. Absolutely, there is no chain or link for transfer of patta from Karuppiyah Chettiar to the first respondent. There is no material evidence to show that notice was sent either to Karuppiyah Chettiar or to his legal heirs or any enquiry was conducted prior to transfer of patta. Admittedly, there are some transfers in the middle. If the persons without title have created some documents, the revenue authorities cannot be called upon to blindly make the revenue entries in their name, that too without any notice or enquiry. The revenue authorities cannot decide the title if there are disputes, they cannot simply mutate the revenue records based on some sale deeds executed by the persons without title and they cannot also intermeddle with the patta of the settlement authorities.



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4.3. The learned counsel would also submit that the second respondent herein has not granted any patta to the appellant and he has only restored the patta in the name of the settlement pattathar. It is for either of the parties to workout their remedy before the competent authority for their right, interest, title and possession. Unfortunately, the writ Court failed to consider the findings of the second respondent herein and allowed the writ petition and set aside the order of the second respondent which warrants interference of this Court.

5. The learned counsel for the first respondent would submit that admittedly, the appellant, challenging the patta issued in the name of Ramanathan Chettiar, who is the predecessor in title to the fifth respondent, filed an appeal before the third respondent. The first respondent is the purchaser of the subject property from the fifth respondent. In the said appeal, the contesting respondents vehemently questioned the *locus standi* of the appellant. Though the appellant filed the appeal before the third respondent claiming that he is the great grandson of M.K.R.Karupiah Chettiar, he has not produced any iota of



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document to prove that he is related to M.K.R.Karupppiah Chettiar. He has not even produced genealogy or any document like legal heirship Certificate of his predecessors to prove the link between him and the so called settlement pattathar M.K.R.Karuppaiah Chettiar. Therefore, the third respondent rightly dismissed the appeal. But, whereas, when the appellant filed a revision, the second respondent failed to consider that several sales had taken place and based on the sale and possession, patta was transferred in the name of the purchaser of the property, has simply passed an order to the effect that the first respondent has to approach the Civil Court and also restored the patta in the name of M.K.R.Karupppiah Chettiar. Challenging the same, the first respondent has filed the writ petition. The writ Court rightly held that once a dispute arises regarding the title between the parties, the competent Court is a Civil Court and Revenue Court cannot decide the same. Challenging the same, the appellant has filed the present writ appeal. Absolutely, there are no merits in the appeal and the same is liable to be dismissed.

6. Heard both sides and perused the materials available on record.



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7. Admittedly, in the Settlement Register, patta for the subject property stood in the name of one M.K.R.Karuppiah Chettiar. Subsequently, patta was granted in favour of one Ramanathan Chettiar and thereafter, the appellant herein filed an appeal before the third respondent. The third respondent dismissed the appeal. Challenging the same, the appellant filed a revision before the second respondent. The second respondent set aside the order of the third respondent and directed to restore the patta to the original position as mentioned in the Settlement Register. Challenging the same, the first respondent herein filed a writ petition before this Court in W.P.(MD)No.7566 of 2016. The learned Single Judge after hearing the parties, allowed the petition and set aside the order of the second respondent. Therefore, the present appeal.

8. Originally, the patta for the subject land, stood in the name of Karuppiah Chettiar in Settlement Register and subsequently, the patta was transferred in the name of one Ramanathan Chettiar on 03.11.1986. When the appellant challenged the said patta transfer and filed an appeal before the third respondent, the contesting private respondents in the



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appeal vehemently questioned the *locus standi* of the appellant and the relationship between the appellant and M.K.R.Karuppiah Chettiar. Considering the same, the third respondent dismissed the appeal. However, the second respondent allowed the revision filed by the appellant herein.

9. The learned counsel for the appellant has taken a stand that since there is a title dispute, the writ Court has no jurisdiction to entertain the writ petition. The learned counsel for the private respondents has also taken the same stand that when there is a title dispute, the writ Court has got no jurisdiction and the parties only have to approach the Civil Court. There is no quarrel with the settled position of law. If there is any dispute in title between the two parties or two private individuals, then, they have to approach the Civil Court for deciding the title and the Revenue Court or other Authorities cannot decide the title.

10. In this case, the appellant filed an appeal before the third respondent claiming that the patta originally stood in the name of



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Karuppiah Chettiar in the Settlement Register and subsequently it was transferred in the name of one Ramanathan Chettiar. It is settled position of law that if it is a private litigation, certainly, the party who files an appeal or challenges any order or approaches the Court has to establish the *locus standi* and or otherwise and the way he is aggrieved with the proceedings or orders. When the appellant approached the third respondent by way of an appeal challenging the patta issued in the name of one Ramanathan Chettiar and claiming right through M.K.R.Karuppiah Chettiar, then he has to establish the relationship between him and the so called settlement pattathar M.K.R.Karuppaiah Chettiar. When the private respondents have specifically questioned the relationship between the appellant and Karuppiah Chettiar, it is his duty to establish as to how he is related to Karuppiah Chettiar and that he has *locus standi* to challenge the patta transfer. However, the appellant has not done so. Hence, the third respondent dismissed the appeal. However, the second respondent without considering the *locus standi* of the appellant has simply set aside the order of the third respondent. If at all the appellant is aggrieved by the order of the Revenue Authority and



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if he has got any right over the property, he should approach the Civil Court to establish his right and title. The learned single Judge of this Court has elaborately discussed about the factual position as well as the legal position and therefore, this Court does not find any reason to interfere with the findings of the learned Single Judge. In view of the above findings and discussions, we find no merits in the appeal and the appeal is liable to be dismissed.

11. In the result, the Writ Appeal is dismissed. However, the appellant is at liberty to workout his remedy in the manner known to law before the Civil Court if so he is aggrieved and advised. No costs. Consequently, connected Miscellaneous Petitions are closed.

(P.V., J.) (K.K.R.K., J.)
06.09.2024

NCC:Yes/No
Index:Yes/No
Speaking/Non-speaking order

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and
K.K.RAMAKRISHNAN, J.

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