



W.P.(MD) No.16892 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.08.2024

**CORAM:**

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

**W.P.(MD) No.16892 of 2016**

**and**

**W.M.P(MD)No.12256 of 2016**

1.Rajammal

2.Darwin

3.Mahibha

4.Jesibha

5.Delwin

.. Petitioners

Vs.

1.The District Revenue Officer,  
Nagercoil,  
Kanyakumari District.

2.The Tahsildar,  
Padmanabhapuram,  
Thuckalay,  
Kanyakumari District.

3.K.Satheesh

.. Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, to call for the proceedings in M4/15790/2013, dated 30.06.2016 passed by 1<sup>st</sup> respondent confirming the order passed by 2<sup>nd</sup> respondent in proceeding MuMu AA3/7730/2012, dated 11.04.2013, quash the same.

For Petitioners : Mr.V.M.Balamohan Thambi

For R1 & R2 : Mr.B.Saravanan  
Additional Government Pleader

For R3 : Mr.K.P.Narayana Kumar

### **ORDER**

Challenging the order passed by the 1<sup>st</sup> respondent, dated 30.06.2016, the petitioners are before this Court seeking to quash the same.

2. The brief facts of the case is that the property comprised in O.Sy.No.1411F, R.Sy.No.529 measuring an extent of 1 acre 90 cents was purchased by Raman Pillai in the year 1942. He was enjoying the said property as his own since then and patta was also granted to him in Patta No.3219. On his death, the property was inherited by one Sankaran Nair.



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The said Sankaran Nair had executed power of attorney in favour of Palayyan s/o Kuchu Pillai. The said Palayyan had executed a Will in favour of the petitioners' father on 13.01.2006.

3. After his purchase, the petitioners' father came to know that the Sankaran Nair had executed a sale deed on the basis of an unregistered power of attorney and therefore, their father had immediately contacted the original owner Sankaran Nair. The said Sankaran Nair agreed to execute a consent deed in favour of their father and accordingly, a registered consent deed was executed on 07.10.2013. By reason of this, he had got title and possession over the property and patta was also changed into his name.

4. While so, the 3<sup>rd</sup> respondent filed an application before the 2<sup>nd</sup> respondent for cancelling the patta granted to the petitioners' father. The petitioners' father had appeared and produced all the documents. However, ignoring the same, the 2<sup>nd</sup> respondent had cancelled the patta granted in favour of their father. Against the same, he had filed an appeal



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before the 1<sup>st</sup> respondent. Pending this proceeding, the petitioner's father had died on 05.10.2014. Thereafter, the petitioners were brought on record and the 1<sup>st</sup> respondent without considering the merits of the case and the death of the petitioners' father, had dismissed the appeal and confirmed the order of the 2<sup>nd</sup> respondent. Against which, this writ petition has been filed.

5. Simultaneously, the 3<sup>rd</sup> respondent had filed a suit in O.S.No.128 of 2009 on the file of Sub Court, Kuzhithurai for partition and separate possession against the petitioners and others. On 23.02.2012, the Sub Court, Kuzhithurai dismissed the suit. Pending this suit, the 3<sup>rd</sup> respondent had trespassed into the property and put up constructions. Therefore, the petitioners' father had filed a suit in O.S.No.226 of 2010 on the file of the District Munsif Court, Padmanabhapuram against the 3<sup>rd</sup> respondent and others for a declaration. Pending these proceedings, the petition for cancellation of patta had been filed. Though the pendency of the civil suit was brought to the notice of the respondents, the impugned order has been passed.



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6. It is also contended by the learned counsel for the 3<sup>rd</sup> respondent that there is a Temple in the suit property. However, there is no reference to the same even in the suit in O.S.No.128 of 2009. But the fact is not denied by the learned counsel appearing for the petitioners. By the impugned order, despite being aware of the pendency of the suit, the authorities while relegating the parties to the suit, has proceeded to cancel the patta. This is against the language of Section 4(4) of the Patta Passbook Act. Hence, the order passed by the 1<sup>st</sup> respondent, dated 30.06.2016 is set aside and both parties are directed to await the judgment and decree in O.S.No.226 of 2010. It is needless to state that since the parties have admitted the presence of the Temple, there shall be no disturbance either to the worship before the Temple or to conduct Poojas and rituals till the disposal of the suit in question. The learned District Munsif Court, Padmanabhapuram is directed to dispose off O.S.No.226 of 2010 within a period of four (4) months from the date of receipt of copy of this order.



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7. With the above direction, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

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NCC : Yes/No

Index : Yes/No

Internet : Yes

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To

1.The District Revenue Officer,  
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2.The Tahsildar,  
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**P.T.ASHA, J.**

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