



W.P.(MD) No.24731 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.10.2024

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THE HONOURABLE Ms.JUSTICE P.T.ASHA

**W.P.(MD) No.24731 of 2024
and
W.M.P.(MD) No.21039 of 2024**

Gandhi

... Petitioner

/vs./

1.The Revenue Divisional Officer,
Sivagangai.

2.The Tahsildar,
Kalaiyarkoil Taluk,
Sivagangai District.

3.D.Pitchaimani

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records relating to the proceedings of the impugned order in Na.Ka.No.A4/4563/2024 dated 25.09.2024 passed by the 1st respondent and quash the same.

For Petitioner : Mr.G.Prabhu Rajadurai



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

For R3 : Mr.M.Rajarajan

ORDER

The petitioner seeks to quash the order passed by the first respondent in his proceedings bearing Na.Ka.No.A4/4563/2024 dated 25.09.2024.

2. The basis on which the above writ petition has been filed is as follows:-

2.1. It is the case of the petitioner that the punja land comprised in S.No. 155/6A measuring an extent of 2 cents at Kaya Odai Village, Kalaiyarkoil Taluk, Sivagangai District, which is the subject matter of the above writ petition, had been purchased by her mother, Karuppayee Ammal under a registered sale deed dated 20.10.1966. The said property was part of a larger extent measuring 3.35 acres comprised in S.No.155/6. It is the case of the petitioner that her mother had been in absolute possession and enjoyment of the said lands and after her demise, the petitioner's sister, Govindhammal, her brother, Pandi and herself had become entitled to the property and were enjoying the same as absolute owners.



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2.2. While so, one Govindammal, W/o.Karuppiah and her daughter, Amsavalli started interfering with the possession of the property and had created fraudulent sale deeds in favour of one Murugappan, who in turn had executed a sale deed in favour of the third respondent. The said Govindammal, W/o.Karuppiah, is none else than the wife of the petitioner's husband's brother. Therefore, the petitioner and her siblings had filed a suit O.S.No.81 of 2015 on the file of the District Munsif Court, Sivagangai, for declaration and injunction.

2.3. By judgment and decree dated 04.12.2017, the said suit was dismissed. Challenging the same, they had preferred an appeal in A.S.No.17 of 2018 on the file of the Sub Court, Sivagangai and the learned Subordinate Judge by his judgment and decree dated 28.06.2022 was pleased to allow the appeal and the third respondent has challenged the same before this Court in S.A.(MD) No.607 of 2022, which is now pending. The petitioner would submit that the third respondent had not obtained any interim orders in the said second appeal.

2.4. After the judgment and decree of the Sub Court, the petitioner and her siblings had made an application to the second respondent for mutation of the



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patta and by order dated 08.01.2024, the patta was ordered to be mutated and sub-division was also directed to be effected. Consequently, the second respondent by order dated 23.01.2024 sub-divided the property as S.No.155/6A measuring an extent of 2 acres and as S.No.155/6B measuring an extent of 1.35 acres and entered the name of the petitioner in respect of S.No.155/6A and the name of the third respondent in respect of S.No.155/6B.

2.5. Challenging the said order, the third respondent had preferred an appeal before the first respondent, who had passed the impugned order cancelling the order of mutation passed by the second respondent on the ground that the second appeal is pending before this Court. Challenging the same, the petitioner is before this Court.

3. The learned counsel for the petitioner would submit that once the civil Court had passed the decree, the Revenue Authorities were bound by it and cannot refuse to mutate the revenue records. He would submit that the appeal filed by the petitioner had been allowed and therefore, the petitioner was armed



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with the decree for declaration and injunction. In the light of the above, the impugned order suffers from arbitrariness.

4. The learned Additional Government Pleader appearing on behalf of the respondents 1 and 2 on the other hand would submit that once there is a dispute with reference to title, the Revenue Authorities cannot effect the mutation of the revenue records. In the instant case, the judgment and decree of the Subordinate Court is subject to challenge and pending in the second appeal before this Court. Therefore, the impugned order has been rightly passed.

5. Heard the learned counsel on either side.

6. Admittedly, the petitioner has filed the suit for declaration and injunction with reference to an extent of 3 cents (sic., 2 acres). The suit after contest had been dismissed, thereby rejecting the petitioner's plea for declaration and injunction with reference to the property in question. The appellate Court after observing that the sale deed, under which the petitioner's mother had purchased the property, describes the survey number as S.No.155/part had proceeded to



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presume that the property in question being a part of the larger extent of property in one survey number when it was being sold, the same would be mentioned as part. Further, when the petitioner's mother had purchased the property, it was jointly owned by 12 individuals, who had a joint patta. On this premise, the appeal appears to have been allowed. Challenging this judgment and decree, the third respondent has filed the second appeal and the same is pending on the file of this Court.

7. After the judgment and decree in the first appeal and the filing of the second appeal, the petitioner has sought for mutation of the revenue records. The second respondent in his order dated 08.01.2024 had stated that since no second appeal had been filed against the judgment and decree in A.S.No.17 of 2018, the patta could be granted to the petitioner. The first respondent through the impugned order has rightly held that since there was a dispute with reference to the title, the order of the first respondent was erroneous and has rightly set aside the order. Rule 4(4) of the Tamilnadu Patta Passbook Rules, 1987, reads as follows:-



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"4. (4) In the event of the Tahsildar being satisfied that a dispute concerning ownership of patta is already pending in a Court or issues are raised before him which impinge on personal laws or laws of succession and all the parties interested do not agree on the ownership in writing, he shall direct the concerned parties to obtain order on the ownership from a competent Civil Court having jurisdiction before changing the entries as already recorded and existing in the various revenue records."

8. In the instant case, the parties are already before this Court in second appeal and taking note of the fact that the first respondent has passed the order only on the ground that there was no challenge to the judgment and decree in A.S.No.17 of 2018, the impugned order does not suffer from any infirmity and consequently, the Writ Petition stands dismissed. It is well open to the parties to approach the Revenue Officials once the second appeal is disposed of and till such time, no mutation or changes shall be effected by the Revenue Authorities.



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WEB COPY No costs. Consequently, connected Miscellaneous Petition is closed.

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

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To

- 1.The Revenue Divisional Officer,
Sivagangai.
- 2.The Tahsildar,
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P.T.ASHA, J.

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