IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-04-2025

CORAM

THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

WP Nos. 346 & 7252 of 2025
and WMP Nos. 387 & 8069 of 2025

P.Jothi

Petitioner in both W.Ps

Vs

1. The Commissioner Of Revenue
Administration And Disaster
Management, Chepauk,
Chennai 600010.

2.The District Collector
Collectorate, Salem 636007,
Salem District.

3.The Revenue Divisional Officer
Attur, Salem District.

4.Mrs.T.Priyadharshini
Revenue Divisional Officer,
Attur, Salem District.

5.V.C.Varadharajulu

6.Vijayachandran

7.The District Revenue Officer, Salem

Respondent in both W.Ps

[R7 is suo motu added vide order dated 07.04.2025 in W.P.No.346 & 7252 of 2025]

PRAYER in W.P.No.346 of 2025 Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Prohibition, prohibiting the respondents 3 and 4 from proceedings with the enquiry in Na.Ka.5713/2024/Aa1 dated 6.12.2024 (sent on 12.12.2024) issued by the 4th respondent in the capacity as the 3rd respondent pending enquiry against her before the respondents 1 and 2 on petitioner complaint dated 18.11.2024

PRAYER in W.P.No.7252 of 2025 Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 03.01.2025 made in Na.Ka.5713/2024/Aa1 passed by the 3rd respondent quash the same and consequently delete the name of late Dhanalakshmi in Patta No. 1133 in respect of 1.53 acres comprised in S.F.No. 122/2A, Narasingapuram Village, Attur Taluk, Salem District.

For Petitioner(s):	Mr.N.Manoharan for Mr.Ka.Prabaharan
For Respondent(s):	Mr.M.R.Gokulkrishnan Additional Government Pleader for R1 to R3 Mr.R.Saravanan for Mr.T.Saikrishnan for R5 and R6

ORDER

The District Revenue Officer, Salem is *suo motu* added as the 7th respondent in both these writ petitions.

2.The issue involved in both these writ petitions are common and hence, they are taken up together, heard and disposed of through this common order.

3.W.P.No.346 of 2025 has been filed to forbear the Revenue Divisional Officer, Attur from proceeding further with the enquiry. W.P.No.7252 of 2025 has been filed challenging the impugned proceeding of the Revenue Divisional Officer, Attur dated 03.01.2025 and for a consequential direction to the

Revenue Divisional Officer to delete the name of Late Dhanalakshmi from Patta Nu.1133 with respect to the subject property.

4.The case of the petitioner is that one Lakshmi Ammal w/o.Ramasamy Nayakan was the original owner of the subject property. The said Lakshmi Ammal is the mother of the petitioner. By virtue of four Settlement Deeds dated 05.02.2003, 25.11.2004 and 01.03.2010 (2 Deeds), the property was settled in the name of the petitioner. Thereafter, the petitioner had put up construction after getting necessary approval through Building Approval dated 05.03.2004 and 29.12.2006. A joint patta was issued in the name of the petitioner in Patta No.1133.

5.Initially, the petitioner made an attempt to construct a compound wall in the subject property and the same was objected by the President of the Attur Bar Association. Hence, the petitioner filed W.P.No.21260 of 2019 and this writ petition was allowed by an order dated 23.10.2019 and the petitioner was permitted to put up the compound wall with police protection.

6.The petitioner made a representation to the District Collector stating that the name of one Dhanalakshmi Ammal has been included in the patta by mistake. This representation was referred to the Revenue Divisional Officer and the enquiry notice was also issued by the then Revenue Divisional Officer. The Revenue Divisional Officer who had enquired this matter was transferred and the 4th respondent assumed office through proceedings dated 07.02.2024 issued in G.O(2D) No.34. The 4th respondent without hearing the parties straight away proceeded to pass an order dated 23.08.2024. This order was put to challenge by the petitioner in W.P.No.27867 of 2024 before this Court. This Court on considering the facts and circumstances of the case and the grounds raised by the petitioner, allowed the writ petition by an order dated 05.11.2024 and the relevant portions are extracted hereunder:

> *2. The limited grievance that has to be addressed in the above writ petition is that the impugned order, which runs into several pages, has been passed by an Officer who has neither conducted an enquiry nor heard the parties. The enquiry in the*

above proceedings was heard by one V.Ramesh, the then Revenue Divisional Officer. The first summons was issued on 13.12.2023 directing the parties to be present on 29.12.2023. Thereafter, the said summons for an enquiry was issued by the said Officer on ...02.2024 which appears to have been signed by one of the Officers on 25.01.2024 calling upon the parties to be present on 05.02.2024 for an enquiry. Thereafter, by orders of the Government in G.O.Ms.No.2(d) No.34 [Revenue and Disaster Department] dated 07.02.2024, the said Ramesh was relieved from the post of the Revenue Divisional Officer, Attur and the incumbent, Priyadharshini had taken charge in his place. After assuming charge, the said Officer has not called the parties for enquiry. This is evidenced by the fact, in reference No.5 of the impugned order, the Officer would only refer to the notices dated 13.12.2023 and 25.01.2024.

3. Therefore, taking note of the above facts and without going into the merits of the case, as the principles of natural justice have not been followed, the impugned order dated 23.08.2024 is set aside and the matter is remitted back to the file of the second respondent herein to hear the matter afresh and pass orders on merits and in accordance with law, after giving

> *notice to both parties, within a period of two months from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.*

7.The further case of the petitioner is that the present incumbent who is the 4th respondent in the writ petition was demanding money and therefore, a complaint was given to the Vigilance Cell. The said complaint was acted upon and it was forwarded to the Commissioner for Revenue Administration, Chennai for taking necessary action. In the meantime, the 4th respondent issued a notice calling for an enquiry. Since the petitioner had made an allegation against the 4th respondent to the effect that money was demanded, the petitioner did not want the 4th respondent to conduct the enquiry. Accordingly, W.P.No.346 of 2025 was filed before this Court. When this writ petition came up for hearing on 10.01.2025, this Court passed the following order:

> *Today, the learned Additional Government Pleader would produce an order dated 03.01.2025 said to have been passed by*

the third respondent even before the notice had been ordered by this Court. The order now produced would show that the third respondent has received a petition from the fourth respondent and the order appears to be on the basis of this representation.

2.This Court asked as to how the third respondent had received a fresh petition from the fourth respondent particularly when this Court had in the order dated 05.11.2024 directed the petitioner to consider afresh the representation which was the subject matter of the earlier order dated 23.08.2024 made in Mu.Mu.8349/2023/Aa1 and this court had directed her to conclude the enquiry within a period of two months from the date of receipt of copy of this order. The third respondent appears to have shown haste in passing orders in the above matter, that too on a fresh petition filed by the fourth respondent. The impugned order dated 03.01.2025 refers to a alleged notice in Na.Ka.No.5713/2024/A1. However, there is no date of the said notice. Therefore, the respondent is directed to produce entire records in Na.Ka.No.5713/2024/A1, which will include all the notices issued and the acknowledgments showing proof of service.

3.The third respondent shall also give details of all the petitions relating to transfer of patta, proceedings that is pending before her with the dates.

4.Post on 23.01.2025.

8.By the time, the above order came to be passed on 10.01.2025, the impugned proceedings dated 03.01.2025, came to be passed by the 3rd respondent and the same has been put to challenge in W.P.No.7252 of 2025.

9.The 3rd respondent has filed a counter affidavit. The 3rd respondent has taken a stand that the enquiry was conducted by the 3rd respondent based on the directions issued by this Court in the earlier writ petition in W.P.No.27867 of 2024. That apart, the 3rd respondent after perusing the documents that were produced by both sides found that the petitioner did not prove the title and on the other hand, the 5th and 6th respondents had produced valid title documents which correlates with the revenue records and therefore, the order was passed by the 3rd respondent dated 03.01.2025. It is further stated that if the petitioner is aggrieved by the order passed by the 3rd respondent, an appeal should have been filed before the District Revenue Officer and instead, the petitioner has directly filed the writ petition. Accordingly, the 3rd respondent has sought for the dismissal of these writ petitions.

10.Heard Mr.N.Manoharan, learned counsel appearing on behalf of the petitioner, Mr.M.R.Gokulkrishnan, learned Additional Government Pleader appearing on behalf of respondents 1 to 3 and Mr.R.Saravanan, learned counsel appearing on behalf of respondents 5 and 6.

11.The learned counsel for the petitioner submitted that the haste with which the 4th respondent has passed the impugned order dated 03.01.2025, clearly shows that there was bias in the mind of the 3rd respondent and the 3rd respondent should not have passed orders, since already a complaint has been given against the 4th respondent before the Vigilance Cell and the enquiry was pending. The learned counsel for the petitioner submitted that without going into the merits of the case, the impugned order dated 03.01.2025, is vitiated on the ground of bias and on that ground alone, the order passed by the 4th respondent is liable to be interfered by this Court.

12.Per contra, the learned Additional Government Pleader appearing on behalf of the official respondent submitted that false allegations have been made against the Revenue Divisional Officer and the Revenue Divisional Officer had properly considered all the relevant documents that were presented by both sides and order was passed on merits and therefore, if at all, the petitioner is aggrieved by the same, the petitioner should have filed an appeal before the District Revenue Officer. Hence, the Revenue Divisional Officer cannot be victimized in this case, since the Revenue Divisional Officer has merely complied with the order passed in the earlier writ petition and passed orders on merits.

13.The learned counsel appearing on behalf of the 5th and 6th respondents submitted that the petitioner does not have even have a semblance of right over the subject property and that the materials that were relied upon by the 5th and 6th respondents sufficiently goes to show that they are having the title and interest in the subject property. The learned counsel submitted that even without going into the issue of bias that was raised by the learned counsel for the petitioner, this Court can independently deal with the case based on the materials relied upon by both sides and if that process is undertaken, this Court will come to a conclusion with respect to the claim made by the 5^{th} and 6^{th} respondents and pass orders in the main writ petition.

14.This Court has carefully considered the submissions made on either side and also the materials available on record.

15.On going through the sequence of events and the various developments that took place after the 4^{th} respondent took charge as the Revenue Divisional Officer and considering the seriousness of the complaint made by the petitioner against the 4^{th} respondent, the 4^{th} respondent ought not to have conducted the enquiry in this case. It is true that this Court had allowed the earlier writ petition that was filed in W.P.No.27867 of 2024 and remanded the matter back to the file of the Revenue Divisional Officer. However, the nature of allegations that have been raised by the petitioner, should have tied the hands of the Revenue Divisional Officer from conducting the enquiry in this case. Under such circumstances, the Revenue Divisional Officer could have sought for a clarification from this Court and the representation made by the petitioner should have been enquired by some other officer or atleast by the District Revenue Officer. Instead, the present incumbent holding the position of Revenue Divisional Officer has passed the impugned order dated 03.01.2025.

16.The learned counsel for the 5th and 6th respondents submitted that this Court can deal with the merits of the case instead of dealing with the ground of bias raised by the petitioner.

17.This Court cannot adorn the role of the Revenue Divisional Officer and hear the matter on merits. There is a hierarchy of authorities prescribed under the Patta Pass Book Act and it is for them to deal with the issue on merits and this Court exercising its jurisdiction under Article 226 of the Constitution of India should not be performing the role of those authorities.

18.If ultimately this Court deals with the writ petitions on merits and finds that the 5th and 6th respondents have made out a case, the consequence will be that this Court has to uphold the order passed by the Revenue Divisional Officer against whom allegations of bias has been put forth. Therefore, it will not be appropriate for this Court to deal with the issue on merits considering the fact that such an eventuality may ultimately ensue in this case.

19.The rule against bias is fundamental to natural justice principle. The test of likelihood of bias is based on the reasonable apprehension of a reasonable man fully cognizant of the facts. In deciding the question of bias, the Court must take into consideration human probabilities and ordinary course of human conduct. The law on this issue is now too well settled. On going through the records, a very serious allegation has been made against the 4th respondent to the effect that the 4th respondent had demanded for money which has resulted in a complaint given to the Vigilance Cell and the matter has already been forwarded to the Commissioner of Revenue Administration for necessary action and the same is pending. Under such circumstances, the 4th respondent should have desisted from hearing the matter. Even when W.P.No.346 of 2025 was entertained by this Court, this Court wanted to ascertain as to how the 3rd respondent had acted upon the fresh petition that was given by the private respondents when an earlier order was passed remanding the matter back to the file of the 3rd respondent. Accordingly, this Court directed the entire records to be produced. In the meantime, the impugned order came to be passed.

20.This Court does not want to go into the merits of the case and it will suffice if the impugned proceedings of the 3rd respondent dated 03.01.2025, is interfered on the ground of apparent bias. Accordingly, the proceedings of the 3rd respondent dated 03.01.2025, is hereby quashed. The matter is relegated to the file of the District Revenue Officer, Salem District and the District Revenue

Officer is directed to issue notice to the petitioner and respondents 5 and 6 and conduct an enquiry and pass final orders, within a period of eight weeks from the date of receipt of copy of this order.

21.In the result, both the writ petitions are allowed with the above directions. No Costs. Consequently, connected miscellaneous petitions are closed.

07-04-2025

Index:Yes
Speaking
Internet:Yes
Neutral Citation:Yes
ssr

To

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Administration And Disaster
Management, Chepauk, Chennai
600010.

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N.ANAND VENKATESH J.

ssr

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