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WP No. 3711 of 2019

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-03-2025

CORAM

THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

**WP No. 3711 of 2019
and WMP No. 4093 of 2019**

1. Vrinda Nirodi

Petitioner(s)

Vs

1. The District Revenue Officer
Chennai District, Chennai

2. The Revenue Divisional Officer,
Egmore, Chennai

3. The Tahsildar,
Velachery Taluk, Chennai

4. T.B. Babu,

Respondent(s)

PRAYER Writ Petition filed under Article 226 of the Constitution of India for
issuance of a Writ of Certiorarified Mandamus, Calling for the records of the 1st



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respondent in A2/ 507/ 2016 dated 05.04.2018 and the consequential Order of the 2nd respondent in Na.Ka.No. J2/ 10719/ 2018 dated 19.12.2018 and quash the same and consequently, direct the respondents 1 to 3 to restore the patta stands in the petitioner's name in respect of the property measuring 38 Cents of lands in New Survey No.106 and 107/ 1, Old Survey No.125/ 2 Part, which are corresponding to Paimash Nos.364 and 365 situated at Block No. 23, Tiruvanmiyur Village, Velachery Taluk at Door No. 5, Old No. 2, New No. 7, Old No. 2A.

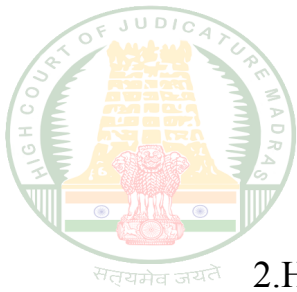
For Petitioner(s): Mr.V.P.Sengottuvel
Senior Counsel for
Mr.C.Elamurugan

For Respondent(s): Mr.M.R.Gokul Krishnan
Additional Government Pleader for R1 to R3
Mr.Harikrishnan For R4

ORDER

This writ petition has been filed challenging the impugned proceedings of the 2nd respondent dated 05.04.2018 and the consequential order of the 1st respondent dated 19.12.2018 and for a consequential direction to respondents 1 to 3 to restore the patta in the name of the petitioner's father with respect to the

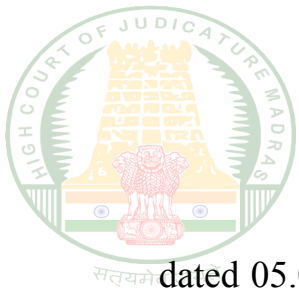
subject property.



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2. Heard Mr.V.P.Sengottuvel, learned Senior Counsel appearing on behalf of the petitioner, Mr.M.R.Gokul Krishnan, learned Additional Government Pleader appearing on behalf of respondents 1 to 3 and Mr.Harikrishnan, learned counsel appearing on behalf of the 4th respondent.

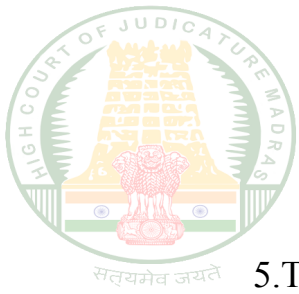
3. The case of the petitioner is that the subject property in S.Nos.106 and 107/1 (Old S.No.125/2 Part) at Thiruvanmiyur Village was owned by one Arunagiri Naicker and his elder son Marimuthu Naicker along with other large extents of properties. These properties were partitioned among the brothers through a Partition Deed dated 21.05.1953 which was registered as Document No.2546 of 1953. Thereafter, Marimuthu Naicker's son M.Ramalingam along with his minor legal heirs had sold 19 cents of lands which was inherited under the Partition Deed to one Seshadri Iyer by way of a Sale Deed dated 05.04.1960 registered as Document No.866 of 1960. Similarly, Murugasamy Naicker @ Murugesu Naicker along with his legal heirs sold 19 cents of lands inherited under the same Partition Deed to Seshadri Iyer by way of a registered Sale Deed



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dated 05.04.1960 which was registered as Document No.868 of 1960. Thus, the said Seshadri Iyer purchased a total extent of 38 cents of land in Paimash Nos.364 and 365.

4.The further case of the petitioner is that the said Seshadri Iyer sold the entire 38 cents of land in favour of the petitioner's father by way of a registered Sale Deed dated 30.01.1961 which was registered as Document No.150 of 1961. The patta was also mutated in his name. Subsequently, the petitioner's father executed a Settlement Deed dated 06.10.1967 in favour of the petitioner which was registered as Document No.3705 of 1967. Out of the property that was settled in favour of the petitioner, the petitioner settled a portion of the property measuring 10,750 Sq. ft. out of 38 cents of land in favour of his father through a registered Settlement Deed dated 02.08.1968 registered as Document No.2614 of 1968. After the demise of the father, the petitioner, his mother and his brothers inherited the property measuring an extent of 10,750 Sq.Ft. with a house, as legal heirs.



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5. The 4th respondent submitted an application seeking for change of patta in his name before the 3rd respondent on 11.08.2014. The 4th respondent thereafter filed a writ petition before this Court in W.P.No.26817 of 2015 seeking for a direction to dispose of the representation. This writ petition was disposed of by an order dated 27.08.2015 directing the 2nd respondent to consider and dispose of the representation after affording opportunity to all the parties concerned, within a period of four weeks.

6. Pursuant to the above order, the 3rd respondent summoned the petitioner and the petitioner appeared before the 3rd respondent and submitted detailed explanation along with all the relevant documents. While so, the 2nd respondent initiated proceedings and issued notice dated 22.03.2017. The petitioner appeared before the 2nd respondent along with all the relevant documents. The 2nd respondent through the impugned proceedings dated 05.04.2017 cancelled the patta standing in the name of the petitioner's father. Aggrieved by the same, the petitioner filed an appeal before the 1st respondent and the 1st respondent

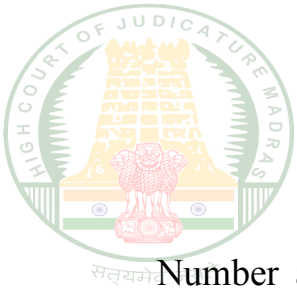


confirmed the order passed by the 2nd respondent through proceedings dated
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19.12.2018. Aggrieved by the same, the present writ petition has been filed
before this Court.

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

8.The 4th respondent is claiming right over the property by virtue of a
Settlement Deed which is said to have been executed in favour of the 4th
respondent's father on 15.09.1960 which was registered as Document
No.2317/1960. The 4th respondent had presented an unregistered Settlement
Deed when the proceedings were pending before the Revenue Divisional
Officer. In this unregistered Settlement Deed, it is said to have been executed by
Marimuthu Naicker and Murugesu Naicker. While describing the property,
surprisingly, apart from mentioning Paimash Nos.366 and 367, S.No.125/2 was
also mentioned. It will not be out of place to state that there was no Survey

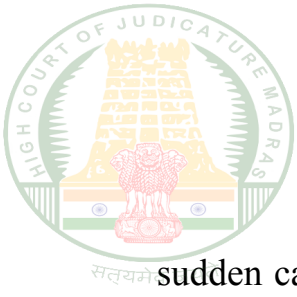


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Number available in the year 1960. Thereafter, a registered Settlement Deed dated 12.09.1960 was produced. This Settlement Deed is said to have been executed by Murugesu Naicker and Ramalinga Naicker in favour of the 4th respondent's father. Even in this Settlement Deed, apart from the Paimash Number, S.No.125/2 has been mentioned. Yet another Settlement Deed was also available in Document No.2317/1960 which is said to have been executed by Ramalinga Naicker and Arunagiri Naicker and what was settled are Paimash Nos.366, 367, 368, 369, 370 and 371 measuring an extent of 1.12 acres. The earlier Settlement Deed had described the extent as 40 cents.

9.To the shock and surprise of this Court, there is another document which has been registered in Document No.2317 of 1960 which pertains to a completely different property at Triplicane.

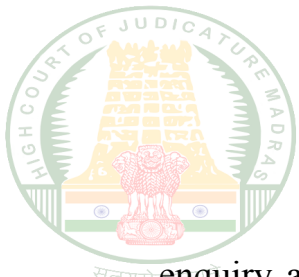
10.Thus, there is a very serious doubt on the very title document that was relied upon by the 4th respondent in this case and the 4th respondent all of a



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sudden came into the scene for the first time in the year 2014. By relying upon the representation made by the 4th respondent and the Settlement Deed that was relied upon by the 4th respondent which is said to have been executed in favour of the father of the 4th respondent, the Revenue Divisional Officer through proceedings dated 05.04.2018 had directed the patta issued in the name of the petitioner's father to be cancelled and to restore the same in the name of Marimuthu Naicker and Murugesu Naicker. This order was subsequently confirmed by the 1st respondent through proceedings dated 19.12.2018.

11.The petitioner is relying upon the title documents which are traceable from the year 1953. Patta also stood in the name of the petitioner's father. The 4th respondent is relying upon some Settlement Deed and the genuineness of the Settlement Deeds is highly questionable since four different types of Settlement Deeds were presented before this Court. Therefore, the very claim made by the 4th respondent based on the Settlement Deeds becomes doubtful. Under such circumstances, the revenue authorities ought not to have ventured into any

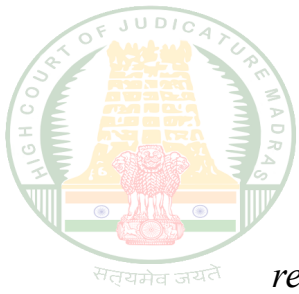


enquiry and if at all the 4th respondent has any right and title, he should have
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been directed to agitate the dispute before the competent Civil Court.

12. It will be relevant to take note of the Division Bench judgement of this Court in ***Vishwas Footwear Company Ltd., !-2, Third Phase, Guindy Industrial Estate, Chennai 32 rep. by Director V.Ravi vs. The District Collector, Kancheepuram and others*** reported in ***2011 5 CTC 94*** and the relevant portions are extracted herein:

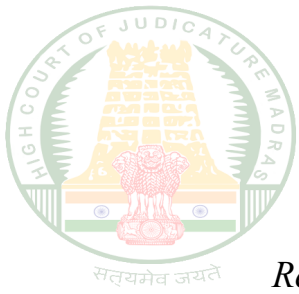
17. The question as to whether the Revenue Authorities be it the Tahsildar exercising power under Section 3 or under Section 5 or under Section 10 or the Revenue Divisional Officer exercising power under Section 12, can consider only a prima facie case as to the entitlement of a person or persons for issuance of Patta. In the event such officers encounter a dispute which could be resolved only by a competent Civil Court, they would not have jurisdiction to enter into such Civil dispute for adjudication. To this extent, the judgments in Kuppuswami Nainar's case followed in Chockkappan's case may be relied upon. The learned Judge in the order under Appeal has also



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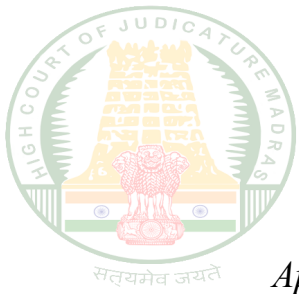
relied upon those judgments and we are in agreement with the same.

18. As far as the power of this Court to entertain a Writ Petition on disputed questions, we may refer to the following decisions of the Supreme Court in Arya Vysya Sabha and others v. The Commissioner of Hindu Charitable and Religious Institutions & Endowments, Hyderabad and others, 1976 (1) SCC 292; Rourkela ShramikSangh v. Steel Authority of India Ltd. and another, 2003 (4) SCC 317 and Himmat Singh v. State of Haryana and others, 2006 (9) SCC 256. Therefore, when disputed questions are involved, this Court will not entertain the Writ Petition and adjudicate upon such dispute, as it is for the parties to approach the Civil Court to decide the issue. However, in the event the order challenged in the Writ Petition is questioned on the ground of want of jurisdiction, certainly this Court would entertain the Writ Petition and particularly when such an order was passed when effective remedy is available before a Civil Court for a person or persons who seek for cancellation of Patta. As already pointed out, though the Fourth Respondent has filed Appeal to the Revenue Divisional Officer seeking for cancellation of Patta, in view of the fact that the



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Revenue Divisional Officer cannot go into the Civil dispute, his order cancelling the Patta by deciding the disputed question of title is without jurisdiction. In this context, we may refer to the Proviso to Section 14 of the Act which bars the Suit. The Proviso reads that if any person is aggrieved as to any right of which he is in possession by an entry made in the Patta Pass Book under this Act, he may institute a Suit against any person denying or interested to deny his title to such right of declaration of his right under Chapter VI of the Specific Relief Act and the entry in the Patta Pass Book shall be amended in accordance with any such declaration. By that Proviso, in the event any grievance is made by the Fourth Respondent over the Patta granted to the Appellant, he should have approached the Civil Court for necessary orders. In the event the Revenue Divisional Officer had no jurisdiction to go into the disputed question of title and in spite of that fact if he decides the same, on the very same yardstick, the further remedy is only a Revision under Section 13 of the Act which is limited to calling for and examining the records of either the Tahsildar or the Appellate Authority by the District Revenue Officer and such Revisional power cannot be equated to Appellate power. Hence, the contention of the Fourth

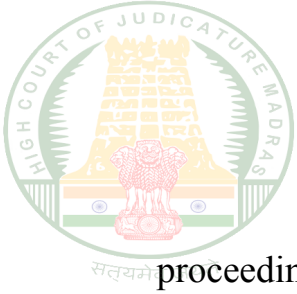


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Appeal and without availing such remedy cannot file the Writ Petition, has no merit. Accordingly, the said contention is rejected.

13.The Division Bench has made it very clear that the revenue authorities cannot go into the right and title over the property and such civil dispute must be agitated only before the competent Civil Court. This is more so in this case since the title document that was relied upon by the 4th respondent is highly doubtful and questionable. If the very document relied upon by the 4th respondent is questionable, there is no need to get into the other issues touching upon the discrepancy of the correlation of the Paimash number and Survey number and pass further orders cancelling the patta issued in the name of the petitioner's father. There was no need for the 2nd respondent to enter into this issue and pass the impugned order which was confirmed by the 1st respondent.

14.In the light of the above discussion, the impugned proceedings of 2nd respondent dated 05.04.2018 and as confirmed by the 1st respondent through



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proceedings dated 19.12.2018, are hereby quashed and there shall be a direction to the 3rd respondent to restore the patta in the name of the petitioner in the revenue records with respect to the subject property, within a period of four weeks from the date of receipt of copy of this order. If at all the 4th respondent has any right over the subject property, it is left open to the 4th respondent to agitate the same before the competent Civil Court.

15. In the result, this writ petition stands allowed with the above directions. No Costs. Consequently, connected miscellaneous petition is closed.

06-03-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

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WP No. 3711 of 2019



1. The District Revenue Officer
Chennai District, Chennai
2. The Revenue Divisional Officer,
Egmore, Chennai
3. The Tahsildar,
Velachery Taluk, Chennai



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WP No. 3711 of 2019

N.ANAND VENKATESH J.

SSR

**WP No. 3711 of 2019
and WMP No.4093 of 2019**

06-03-2025