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W.P.No.24746 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2025

CORAM

THE HONOURABLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.24746 of 2018
and W.M.P.Nos.28768 to 28770 of 2018

K.Subramanian @ Ponnimani

.... Petitioner

Vs

1.The Revenue Divisional Officer,
Thiruchengode,
Namakkal District.

2.The Tahsildar,
Paramathivelur Taluk,
Namakkal District.

3.K.Manian

.... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the entire records relating to the impugned order dated 21.08.2018 passed by the first respondent in Moo.Mu.2636/2018/Uo and quash the same.

For Petitioner	: Mr.M.Mohamed Riyaz for Mr.S.Senthil
For R1 & R2	: Mr.S.Rajesh Government Advocate
For R3	: Mr.R.Radha Pandian



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ORDER

This Writ Petition has been filed challenging the order dated 21.08.2018 passed by the first respondent, thereby allowing the petition filed by the third respondent and cancelled the patta issued in favour of the petitioner in respect of the subject land.

2.Heard the learned counsel appearing on either side and perused the materials available on record.

3.The land comprised in Survey No.383/2, to an extent of 4.38 acres, situated at Punjai Idayar Melmugam Village, Paramathivelur Taluk, was originally owned by Marppa Gounder, Kalianna Gounder, Karuppanna Gounder and Palani Gounder, who are sons of Chinnamuthu Gounder. They executed a partition deed on 04.06.1924, registered vide document No.764 of 1927. As per the said partition deed, the said Karuppanna Gounder was allotted the land situated on the western side, admeasuring 2.19 acres out of 4.38 acres comprised in Survey No.383/2 as per Schedule 'C'. The said Karuppanna Gounder is none other than the grandfather of the petitioner. The remaining extent of 2.19 acres situated on the eastern side was allotted

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in favour of Marappa Gounder as per Schedule 'A'. Thereafter, the said Marappa Gounder sold the said property in favour of Palaniappa Gounder by way registered sale deed dated 12.07.1940 vide Document No.1231 of 1940. In turn, the said Palaniappa Gounder sold the said land in favour of another Karuppanna Gounder by a sale deed dated 09.12.1943, registered vide Document No.31 of 1944. The said Karuppanna Gounder is none other than the grandfather of the third respondent herein.

4.After purchasing the said property, the said Karuppanna Gounder and his sons entered into a partition deed dated 01.07.1969 registered vide document No.927 of 1969, in which the petitioner's father Kandasamy Gounder, was allotted his share of the land comprised in Survey No.383/2 as per 'C' Schedule property of the said partition deed. In respect of the land comprised in Survey No.383/2 admeasuring 20.03 acres excluding the pathway in southern side out of 2.19 acres. However, as per the sale deed which was purchased by the said Karuppanna Gounder dated 09.01.1943, no such right of pathway was conveyed under the said sale deed. The apart, the property purchased by the grandfather of the third respondent is situated on the eastern side of Survey No.383/2, to an extent of 2.19 acres. After the

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demise of the petitioner's grandfather, the said land was allotted to the petitioner's father. In turn, he sold 15 cents to one Kuzhantha Gounder on 20.11.1964 and another 12 cents in favour of one C.Arumugam on 14.12.1964. The petitioner's father was in absolute possession and enjoyment of the remaining land, including 10.5 ft. wide cart track / common pathway leading from Paramathy in Survey No.383/2. While being so, in the year 1986, when UDR Scheme was updated, the Government subdivided the above property comprised in Survey No.383/2 based on the possession and enjoyment of the respective land owners.

5.As per the partition deed, the petitioner and his brother were allotted the property comprised in Survey No.383/2A and the pathway comprised in Survey No.383/2E. As per Patta No.1294, the petitioner's grandfather, the third respondent, Kandasamy and Govindaraj, son of Vangali Gounder, were also shown as co-owners of the pathway comprised in Survey No.383/2E. Subsequently, after demise of the petitioner's grandfather, the petitioner's name was mutated in the place of his grandfather in the revenue records. While being so, the third respondent filed a petition seeking cancellation of patta transfer effected in the petitioner's name.



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6.A perusal of the counter affidavit filed by the second and third respondents and also the submission made on their behalf, reveals that the third respondent submitted a petition to delete the petitioner's name from patta No.1294 in respect of the land comprised in Survey No.383/2E and produced documents. After enquiry, the first respondent deleted the petitioner's name from patta No.1294 in respect of the property comprised in Survey No.383/2E. The only point for consideration in this writ petition is that even assuming that the Patta Pass Book is wrongly issued in favour of any person and consequently title over the land, that person can only file the suit for declaration that the entries made in the Patta Pass Book should be cancelled and consequently for mandatory injunction for grant of patta. Therefore, the first respondent has no jurisdiction to adjudicate upon disputed questions of title at that time of filing of an application for cancellation of patta. The jurisdiction of the first respondent is confined only to a prima facie verification of records, and when the title is in dispute and there are rival claims, the parties ought to have to be relegated to the Civil Court for adjudication before any alteration in the patta is effected.



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7.The only provision available for modification of the entires in the

Patta Pass Book is Section 10, which reads as follows :

“10.Modification of entries in the Patta Pass Book –

(1) Where any person claims that any modification is required in respect of any entry in the Patta Pass Book already issued under Section 3 either by reason of the death of any person or by reason of the transfer of interest in the land or by reason of any other subsequent change in circumstances, he shall make an application to the Tahsildar for thhe modification of the relevant entires in the Patta Pass Book.

(2) An Application under sub-section (1) shall contain such particulars as may be prescribed and shall be accompanied by the documents, if any, relied on by the Applicant as evidence in support of his claim.

(3)(a) Before passing an order on an Application under sub-section (1), the Thsildar shall follow such procedure as may be prescribed and shall also give a reasonable opportunity to the parties concerned to make their representations either orally or in writing. If the Tahsildar decides that any modification should be made in respect of entries in the Patta Pass Book, he shall pass an order accordingly and shall make such consequential changes in the Patta Pass Book, as appear to him to be necessary, for giving effect to his order.



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(b) If the Tahsildar decides that there is no case for effecting any modification in the entries in the Patta Pass Book, he shall reject the Application.

(c) An order under clause (a) or clause (b) shall contain the reasons for such order and shall be communicated to the parties concerned in such manner as may be prescribed.”

By that provision, in the event any modification is required on an Application by any person, it can be made either by reason of the death of any person or by reason of transfer of interest in the land or by reason of any subsequent change in the circumstances. This Section also does not empower the Tahsildar to cancel the Patta already granted, as the power of the Tahsildar to modify the entries in the Patta Pass Book is limited only in case of death of the person who was holding the Patta Pass Book or by reason of the transfer of interest in the land or by reason of any other subsequent change in the circumstances. In the event an Application is made that the Patta Pass Book has been wrongly issued in favour of any person and consequently claiming title over the land entitling such person to grant of Patta, that person can only file a Suit for declaration that the entries made in the Patta Pass Book should be cancelled and consequently for a mandatory injunction for grant of Patta.”



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8.Thus, it is clear that, in the event of any modification is required on an application by any person, it can be made either by reason of the death of any person or by reason of transfer of interest in the land or by reason of any subsequent change in the circumstances. Therefore, the said provision does not empower the revenue authorities to cancel the Patta already granted, as the power of the Tahsildar to modify the entries in the Patta Pass Book is limited only in case of death of the person who was holding the Patta Pass Book or by reason of the transfer of interest in the land or by reason of any other subsequent change in circumstances. Therefore, when there is a rival claim in respect of the very same property, the first respondent has absolutely no jurisdiction to decide the issue and ought to have directed the parties to approach the Civil Court for appropriate relief. In the case on hand, the first respondent cancelled the patta issued in favour of the petitioner and directed to issue patta in respect of the subject land in favour of the third respondent.

9.In view of the above, the order impugned in this writ petition cannot be sustained and is liable to be set aside. Accordingly, the order dated 21.08.2018 passed by the first respondent, is hereby set aside and the writ



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petition stands allowed. If at all any grievance, the third respondent can very well approach the Civil Court for appropriate relief. Consequently, connected miscellaneous petitions are closed. No costs.

12.09.2025

Neutral citation :Yes/No

Index:Yes/No

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