



W.P.No.19587 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 04.02.2025

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No. 19587 of 2021
and
W.M.P.No. 20870 of 2021

R.A.Adhithan

... Petitioner

vs.

1.The District Collector,
Dharmapuri District.

2.The District Revenue Officer,
Collectorate Campus,
Dharmapuri District.

3.The Revenue Divisional Officer,
Dharmapuri District.

4.The Tahsildar,
Dharmapuri District.

5.R.A.Anbazhagan

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of



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the 2nd respondent pertaining to the proceedings in Na.Ka.No.19341/2017/PA2 dated 07.04.2020 and quash the same and consequently direct the 2nd respondent to grant Patta to the petitioner in respect of the lands situate in Survey Nos.349/1, 350/2, 351/1A, 351/1B, 349/2 and 349/3B, Thenkaraikottam Village, Pappireddipatti Taluk, Dharmapuri District.

For Petitioner : Mr.P.Valliyappan
for M/s.PV Law Associates

For Respondents : Mr.M.R.Gokul Krishnan
Addl. Government Pleader for R1 to R4

R5 - No Appearance

ORDER

This Writ Petition has been filed challenging the proceedings of the 2nd respondent dated 07.04.2020 and for a consequential direction to the 2nd respondent to grant Patta to the petitioner with respect to the subject properties situate at Thenkaraikottam Village, Pappireddipatti Taluk, Dharmapuri District.



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2.The case of the petitioner is that the lands comprised in Survey Nos.349/2, 351/1A, 351/2A4 & 351/2A5 were allotted to the petitioner in an oral partition. For these properties, Patta was also issued in favour of the petitioner in Patta No.83. For the properties in Survey Nos.349/1, 352/2, 351/1B, 351/2A1 & 351/2A3, joint Patta was issued in favour of the petitioner and the 5th respondent. The further case of the petitioner is that on 17.11.1998, the parents of the petitioner filed a petition before the 4th respondent to revoke the joint Patta granted in favour of the petitioner and the 5th respondent has to re-register the Patta in their own names. The 4th respondent through proceedings dated 25.06.1999, ordered for removal of the names and for re-register of Patta Nos. 83 & 1265 in the name of the petitioner's father and mother. Thereafter, the parents executed a Will dated 05.07.1999, bequeathing Survey No.350/2 - 1.76 acre, Survey No.351/1 - 2.54 acres, Survey No.349/1 - 1.18 acre, Survey No.349/2 - 1.23 acre, Survey No.349/3A - 0.87 acre and Survey No.349/4 - 0.92 acre in the name of the petitioner's minor sons and the 'B' schedule property in the name of the 5th respondent's minor son. The father of the petitioner also executed a gift deed dated 07.07.2000 wherein, the land comprised in Survey Nos.



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349/2 - 1.94 acre and 349/3B - 0.08 acre was bequeathed in favour of the petitioner. Similarly, the mother also executed a gift deed wherein, the land comprised in Survey No.349/1 - 2.17 acres, Survey No.350/2 - 1.75 acre, Survey No.351/1A - 2.33 acres and Survey No.351/1B - 0.21 acre was bequeathed in favour of the petitioner.

3. The 5th respondent filed a suit for partition with respect to the properties that were bequeathed in favour of the petitioner and the said suit was dismissed. Aggrieved by the same, an appeal was filed before the Additional District Court, Dharmapuri and the said appeal was partly allowed. Aggrieved by the same, the writ petitioner filed second appeal in S.A.Nos.449 and 450 of 2020 before this court. Pending second appeals, an interim order has been granted by this Court.

4. The petitioner gave a representation dated 30.06.2016 to the 4th Respondent for issuance of Patta in his favour with respect to the lands that were bequeathed under the gift deed. An enquiry was conducted. At the time of enquiry, even though the 5th respondent stated that the relevant documents will be filed with objections, the 5th respondent did not



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participate in the proceedings. The enquiry was conducted by the 2nd respondent and the 2nd respondent through the impugned proceedings dated 07.04.2020 has refused to grant Patta in the name of the petitioner stating that without the Will executed by the parents being cancelled, the gift deed executed by the parents in favour of the petitioner cannot be acted upon and based on the same, the Patta cannot be issued in the name of the petitioner. The same has been put to challenge in the present writ petition.

5. Heard Mr.P.Valliappan, learned counsel appearing for the petitioner and Mr.M.R.Gokul Krishnan, learned Additional Government Pleader appearing for the respondents 1 to 4.

6. In the considered view of this Court, the very reasoning given by the 2nd respondent in the impugned proceedings is illegal and unsustainable. There was no occasion for the 2nd respondent to go into an issue, which has no bearing while dealing with the Patta proceedings. That apart, even on legal grounds, there is no embargo in the Testator executing a settlement deed after he had earlier executed a Will and therefore, the 2nd respondent has assumed no such settlement deed can be executed, once a Will has been executed earlier. The 2nd respondent was unaware of the fundamentals of



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civil law, where the Will gets life only after the demise of the Executor of the Will and till his demise, it is left open to the Executor to deal with the property in any manner. In the instant case, the Executor has thought it fit to execute gift deed in the name of the son, after the earlier Will was executed by them. Thereby, the Will that was executed by them earlier will automatically loose its significance. Therefore, the 2nd respondent has created a ground which was not available and thereby, has denied grant of Patta in the name of the petitioner.

7. The impugned order passed by the 2nd respondent dated 07.04.2020 is an error apparent on the face of the order, which requires interference of this Court and accordingly, the same is hereby, quashed. There shall be a direction to the 2nd respondent to grant Patta in the name of the petitioner and his two sons with respect to the subject properties and necessary proceedings shall be issued within a period of four weeks from the date of receipt of a copy of this order.



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8. In the result, this Writ Petition is **allowed** with the above directions.

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No costs. Consequently, connected miscellaneous petition is closed.

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Internet : Yes/No

Index : Yes/No

Speaking order: Yes/No

Neutral Citation: Yes/No

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N.ANAND VENKATESH, J.

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