



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2025

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CORAM :

THE HONOURABLE **MR.JUSTICE N.ANAND VENKATESH**

Writ Petition No.24516 of 2024
and WMP No.26829 of 2024

Rajamma

.... Petitioner

-Vs-

- 1.The District Revenue Officer
District Revenue Office
Krishnagiri District.
- 2.The Sub Collector
Hosur, Krishnagiri District.
- 3.The Tahsildar
Hosur Taluk
Krishnagiri District.
- 4.The Additional Director of Survey
Collector Office
Krishnagiri
Krishnagiri District.
- 5.Mr.Venkateshappa
- 6.Mr.Venkatalakshmaiah

.. Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the impugned order passed by the 1st respondent having reference No.Pa.Mu.3940/2024/J2 dated



01.08.2024 and quash the same and consequently direct the 2nd respondent to restore the Patta in favour of the 1st petitioner's husband late C.Rangappa in respect of Land measuring an extent of 0.02.50 Hectare in Survey No.87/6B situated at Thattikanapalli Village, Hosur Taluk, Krishnagiri District.

For Petitioner : Mrs.R.Divyapreathika

For Respondents : Mr.P.Sathish
Additional Government Pleader
for R1 to R5

Mr.Avinash Wadhwani
for Mrs.V.Srimathi
for R5 & R6

ORDER

This writ petition has been filed challenging the impugned proceedings of the 1st respondent dated 01.08.2024 and for a consequential direction to the 2nd respondent to restore the patta in the name of the petitioner's husband with respect to the subject property.

2.Heard Mrs.R.Divyapreathika, learned counsel for the petitioner, Mr.P.Sathish, learned Additional Government Pleader for R1 to R5 and Mr.Avinash Wadhwani, learned counsel for R5 & R6.

3.The case of the petitioner is that the lands measuring 0.71 Hectare (1.76 Acres) comprised in Survey No.87/6 belonged to one Munusamy. The said Munusamy



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executed a settlement deed in the year 1973 in favour of Ramaiyah and thereby settled an extent of 40 cents. Thereafter the said Ramaiyah executed a sale deed in the year 1981 in favour of the petitioner's husband and sold 10 cents of land. He retained the balance extent of 30 cents. The petitioner further claims that the said Munusamy sold the balance extent of 30 cents also in favour of the petitioner's husband.

4.The further case of the petitioner is that during the UDR scheme, the survey number underwent subdivisions. During the sub division, the existence of road was shown in Survey No.87/6A. Insofar as Survey No.87/6B is concerned, it absolutely belonged to the petitioner's husband. Thereafter, the petitioner's husband sold various extents and he was the absolute owner for an extent of 0.06 cents in Survey No.87/6B and the petitioner is in enjoyment of the same. The revenue records were also mutated in the name of petitioner's husband.

5.In the year 2021, the petitioner's husband along with other legal heirs executed a deed of partition with respect to the subject property which was registered as D.No.9478 of 2021. It is at this point, the entire dispute started and the 5th and 6th respondents proceeded to file a suit in OS.No.338 of 2022, on the file of the Sub Court, Hosur, seeking for the relief of title of 6 cents in Survey No.87/6C and for a declaration that the partition deed dated 01.07.2021 is null and void and for a



permanent injunction not to alienate the suit property.

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6.The 5th and 6th respondents also gave a representation dated 31.07.2023 before the Tahsildar, Hosur and sought for the cancellation of patta sanctioned in the name of the petitioner's husband in Survey No.87/6B. The Tahsildar forwarded the entire records to the 1st respondent. The 1st respondent enquired the parties and the impugned order dated 01.08.2024 was passed by the 1st respondent whereby a direction was given to restore the pata in the name of the vendor Munusamy and restraining both the parties not to block the pathway that is being used by many families in and around the property.

7.It is also relevant to take note of the fact that yet another suit has been filed in OS.No.99 of 2024, before the District Munsif Court, Hosur against the petitioner and the legal heirs seeking for the relief of permanent injunction not to disturb the pathway in Survey No.87/6B. This suit is also pending till date.

8.On carefully considering the pleadings and also the materials available before this Court, it is seen that there is a serious dispute regarding the right and the title over the property. The first suit pertains to Survey No.87/6C and the second suit pertains to Survey No.87/6B. The partition deed of the year 2021 has also been put to challenge. The 1st respondent has proceeded to pass the order by directing the



patta to be restored in the name of the original vendor. If this Court goes into the order passed by the 1st respondent and also takes into consideration the various documents and passes any order in the writ petition by giving positive findings, it will definitely have a bearing in the pending suits and it will affect the rights of either of the parties.

9.This Court while considering a writ of certiorari must keep in mind that the Court is not exercising an appellate jurisdiction. A writ of certiorari can be issued only where there is an error of law on the face of order. This Court can also issue such a writ to correct errors of jurisdiction i.e., absence of jurisdiction or exercise of excess jurisdiction or failure to exercise a jurisdiction that is available. The Apex Court has held that only a patent error can be corrected and not a mere wrong decision. The law on this issue was considered in detail by the Apex Court in *Ayurvedic Sciences and Others .vs. Bikartan Das and Others* reported in **2023 5 MLJ 289**. I had an occasion to follow this judgement in *MNS Enterprises .vs. The District Collector, Chengalpattu and Others* reported in **2024 2 CTC 553**.

10.The 1st respondent while passing the impugned order has taken note of various documents and also the reports submitted by the revenue authorities. The 1st respondent has also taken note of the statement recorded from various persons. After having considered the same, the 1st respondent has come to a conclusion that



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the patta was wrongly issued in the name of the petitioner's husband and accordingly has restored the patta in the name of the original owner. The actual dispute had started only in the year 2021 after the partition deed was entered into. The petitioner claims that her husband was entitled for the entire 40 cents and whereas the private respondents are contending that he was entitled only for 10 cents and that he never became the individual owner of 30 cents. Obviously it is a civil dispute which should not be decided in the writ petition. In view of the fact that two suits are pending between the parties before the competent Civil court, all the issues must be left open to enable the parties to agitate their rights before the competent Civil Court. In order to ensure that the order passed by the 1st respondent does not work to the disadvantage of the writ petitioner, this Court holds that the order passed by the 1st respondent dated 01.08.2024, will not have any bearing in the pending civil proceedings. None of the findings of the 1st respondent will be binding on the Civil Court and the civil Court will deal with the issue on its own merits and in accordance with law after appreciation of evidence. It is further made clear that there will be no more mutation of revenue records till the completion of the civil proceedings. It is further made clear that both the parties will agitate their rights before the competent Civil Court and they will not create any law and order problem and unnecessarily precipitate the issue. Ultimately, depending upon who succeeds before the Civil Court, the mutation of revenue records can take place accordingly.



11. This writ petition is disposed of in the above terms. No costs.

Consequently, connected miscellaneous petition is closed.

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Index : Yes/No

NCS : Yes/No

KP

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N.ANAND VENKATESH, J.

KP

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