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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-12-2025

CORAM

THE HON'BLE MR JUSTICE R. SURESH KUMAR

AND

THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

WA No. 3698 of 2025 AND
CMP Nos. 30499, 30504 and 30501 OF 2025

Abid Basha
S/o. Late. Syed Ahmed Basha,
No.32/74, Ahmed Basha Street,
Dharmapuri.

..Appellants

Vs

1. Vijayalakshmi
2. Elavarasi
3. Vimala
4. Jothi
5. The Secretary to Government of Tamil Nadu
Revenue Department, St. George Fort,
Chennai - 600 009.

6. The District CollectorDharmapuri Disdtrict,
Dharmapuri.

7. The District Revenue OfficerDharmapuri District,
Dharmapuri.

8. The Revenue Divisional Officer, Dharmapuri
Revenue Sub-Division, Dharmapuri District,
Dharmapuri.

9. The Tahsildar, Dharmapuri Taluk, Dharmapuri
District, Dharmapuri.
10. The Village Administrative OfficerNallanahalli
Village, Dharmapuri Taluk, Dharmapuri District,
Dharmapuri.

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11. Parvathy
12. Rajalakshmi
13. Sendurapandian
14. Thirupathy
15. Vimal
16. Iswarya
17. Shanthi
18. Kumaresan

..Respondents

Prayer : Writ Appeal under Clause XV of the Letters Patent to set aside the order dated 23.07.2024 passed in WP No.9675 of 2023.

For Appellant : Mr.R. Balaramesh
For Respondents : Mr.T.K.Saravanan
Additional Government Pleader
-for RR 5 to 10

Judgment

(Judgment of the Court was delivered by V.Lakshminarayanan J.)

We heard Mr.R.Balaramesh for the appellant and Mr.T.K.Saravanan, learned Additional Government Pleader for the respondents 5 to 10.

2. This intra Court appeal assails the order of the learned Single Judge in W.P.No.9675 of 2023 dated 23.07.2024.

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3. The appellant before us is the 7th respondent in the writ petition. For the sake of convenience, the parties shall be referred as per their ranks in the writ petition.

4. The writ petitioners are four in number. They claim to be the children of one Ramasamy. According to them, the property situated in, Survey No.138/1 of Nallanahalli Village, Dharmapuri Taluk and District, belonged to their father Ramasamy. Patta and other revenue records stood in his name. Ramasamy died on 25.03.1991 leaving behind 12 legal heirs including the writ petitioners. They pleaded that the aforesaid land was treated as Inam estate by virtue of Madras Estate Lands (III Amendment) Act of 1936. Subsequently, with the passing of Tamil Nadu Act 26 of 1963, enquiry was commenced before the Assistant Settlement Officer at Salem in S.R.No.119 of 1969. Ramasamy had filed a petition claiming Patta under Section 10(1) and (11) of Act 26 of 1963. One Syed Ahmed Basha filed a counter claim for the lands. By an order dated 15.06.1981, the Assistant Settlement Officer granted Patta to Syed Ahmed Basha, Syed Mahboob and Syed Marqub.

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5. Aggrieved by the said order, Ramasamy had preferred an appeal to the Inam Estates Abolition Tribunal-cum-Subordinate Judge at Krishnagiri in C.M.A.(IAT) No.10 of 1981. The learned Subordinate Judge clubbed this appeal along with few other appeal and passed a common order on 05.11.1985. He allowed the appeals filed by Ramasamy and remitted the matter to the Settlement Tahsildar for fresh disposal. He directed the Settlement Tahsildar to strictly adhere to the orders passed by this Court in the earlier round of litigation in S.T.A.No.8 to S.T.A.No.18 of 1975. The writ petitioners claimed that, post the remand, the Assistant Settlement Tahsildar, Dharapuram conducted an enquiry and allowed the claim of Ramasamy in part, on 10.09.1987.

6. On a further appeal by Ramasamy, the appeal came to be allowed on 28.06.1990. Pursuant thereof, Ramasamy was also granted Patta in Patta No.1091. They alleged that the orders of the Assistant Settlement Officer, Dharapuram had been challenged by the 7th respondent / writ appellant before the Inam Abolition Tribunal-cum-Subordinate Judge at Krishnagiri in C.M.A.(IAT) No.1 of 1991 and 2 of 1991. Further, appeals have allegedly been preferred to this Court and the appeals are alleged to be pending.

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7. The petitioners state that the 7th respondent had moved the third respondent for grant of Patta, who rejected the same on 28.02.1990. The third respondent further directed that the 7th respondent could renew his request for Patta after the proceedings challenging CMA (LAT) 1 of 1991 and CMA (LAT) 2 of 1991 are concluded. The petitioners alleged that, instead of pursuing the alleged S.T.As, the 7th respondent yet again approached the 3rd respondent for transfer of patta in his name. They state that, without notice to the petitioners, the patta was mutated in favour of the 7th respondent on 21.12.2001. Challenging the said order, the petitioners filed the aforesaid writ petition. This Court entertained the writ petition and directed the respondents to file counter.

8. The 5th respondent viz., Tahsildar, Dharmapuri filed a counter that, as per the records available with them, the Assistant Settlement Officer, Salem had passed an order in favour of the father of the 7th respondent viz., Ahmed Basha by an order dated 15.06.1981. Thereafter, during the updating of Land Data Registry Scheme, which was prevalent between 1979 and 1999, Patta was transferred in the name of the 7th respondent's father. He urged that, against the order passed by the Settlement Tahsildar, the father of the petitioners had preferred an appeal to the Assistant Settlement Officer, Dharapuram and obtained an order in his favour on 28.06.1990. It was pleaded that the order dated 28.06.1990 had been passed after nearly 17 years and that the order of the Assistant Settlement Officer, Dharapuram is a forgery. He also stated that the District Revenue Officer had perused the

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records and restored the Revenue Patta in favour of the 7th respondent's father. He stated further if the petitioners are aggrieved by the 3rd respondent's order they should file a suit and a writ is not maintainable. Though the 5th respondent Tahsildar had filed a counter on behalf of respondents 1 to 6 on 16.12.2023, the District Revenue Officer filed an identical counter on 18.03.2024.

9. With the pleadings having been completed, the learned Single Judge took up the matter for final disposal.

10. The learned Judge came to a conclusion that the allegation of the 3rd respondent that the impugned order of the Assistant Settlement Officer, Dharapuram not being available on record is a new story spun out by them. He found it surprising that, when the 7th respondent himself had admitted that challenging the orders of the Assistant Settlement Officer, Dharapuram by way of appeals before the Subordinate Court-cum-Inam Abolition Tribunal and on its dismissal, a further appeal to this Court in the form of Special Tribunal Appeals, the stand of the respondents that the original order is fabricated and forged cannot be countenanced. In any event, the learned Judge left it open to the 7th respondent to file a suit challenging the orders of the Assistant Settlement Officer, Dharapuram on the ground that it is fraudulent and forged. He concluded that, since the appeals against the Settlement Tahsildar are alleged to be pending before the High Court,

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the act of the Revenue authorities in mutating the records cannot be sustained. Hence, he allowed the writ petition quashing the order of the 3rd respondent and the consequential order passed by the Revenue authorities mutating the Patta in favour of the 7th respondent. Aggrieved by the same, the present writ appeal.

11. Mr.Balaramesh reiterated the contention of the proceedings of the Assistant Settlement Officer, Dharapuram is an act of forgery, he pleaded that he had applied under the Right to Information Act 2005 and was informed that there is no such order titled S.R.No.1 of 1987 dated 28.06.1990 passed under Act 26 of 1963. He further alleged that the proceedings relied upon by the writ petitioners have no relationship with the property in dispute. He further pointed out that the legal heirship certificate relied upon by the writ petitioners is also a fabricated one. Hence, he urged that as fraudulent and forged documents have been relied upon by the writ petitioners, this Court should necessarily interfere with the order of the learned Single Judge and set aside the same.

12. We have carefully considered the submissions and have gone through the records.

13. At the outset, we have to point out that if there was no order as pleaded by Mr.Balaramesh today, question of his clients filing an appeal before the

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Subordinate Court against the said order does not arise. Furthermore, he could not have preferred further appeal before this Court. In fact, no appeal numbers were furnished by the 7th respondent / appellant. There cannot be an appeal without an order. The fact that the 7th respondent preferred an appeal before the appellate authority and lost the same, constraining him to knock on the doors of this Court by way of Special Tribunal Appeals.

14. Apart from these crucial facts, we should take note that Patta under the Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963 cannot be a subject matter of challenge or interference by the revenue authorities. The lands, which were notified under the said legislation, were taken over by the Government on and from the appointed date. Thereafter, it fell to the jurisdiction of the Settlement Tahsildar to conduct an enquiry and grant Patta. Against the order of the Settlement Tahsildar, an appeal had to be preferred before the Subordinate Court, which had been notified as the Inam Abolition Tribunal. After conclusion of the proceedings before the Tribunal, an appeal lay before this Court to be heard by a Division Bench consisting of two Judges. Those appeals carry a nomenclature of Special Tribunal Appeals (STAs).

15. The assertion of the 7th respondent is that he has preferred two appeals invoking Act 26 of 1963 before this Court and they are pending. Without those

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appeals being disposed of, he could not have approached the Revenue Tahsildar and obtained a revenue Patta. A Patta granted pursuant to the Settlement proceedings, under Act 26 of 1963, is rendered final under the Statute. If a person has a dispute with the said proceedings it is always open to him or her to file a suit for declaration of his title as held by the Full Bench of this Court in **Srinivasan and Others Vs Sri Madhyaarjuneshwara Swami [1998 (1) MLJ 436].**

16. Curiously enough, in this case the appellant is said to have kept the appeals pending and has directly moved the Revenue Tahsildar for issuance of a revenue Patta. When a similar attempt was made under Act 30 of 1963 viz., Tamil Nadu Minor Inams (Abolition and conversion into Ryotwari) Act 1963, a Division Bench of this Court in **Palaniappa Pandaram (vs) Special Commissioner for Land Administration and three others [1995 (2) MLJ 594]** held that, a regular Tahsildar does not have the power to transfer a Patta which is the subject matter under Act 30 of 1963. We respectfully adopt the view of Chief Justice K.A.Swamy and Justice Doraisamy Raju (as their Lordships then was) and apply the said principle to the facts before us.

17. As long as the settlement proceedings are pending, the Revenue Tahsildar or his superiors in that department cannot interfere and alter the records. It is not in dispute that the land in question was covered under the Madras Estate Lands Act

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1908 and the consequential legislation of the Madras Estates (Abolition and Conversion into Ryotwari) Act of 1948. The lands which were not covered by the 1948 Act were comprehensively covered under the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act of 1963. These three legislations successfully abolished intermediary land holding systems and shaped the agrarian land ownerships in the State of Tamil Nadu. The revenue proceedings, at the hands of a Tahsildar or a Revenue Divisional Officer or District Revenue Officer, cannot be compared with proceedings initiated under any of the aforesaid legislations.

18. As rightly held by the learned Single Judge, if the petitioner has grievance with the order passed by the Assistant Settlement Officer at Dharapuram and by the appellate authority, then he has to agitate the same in the pending Special Tribunal Appeals and not approach the revenue authorities and obtain patta. This Court, while deciding the Special Tribunal Appeals, is vested with the power to set aside the orders of the Inam Abolition Tribunal and the Assistant Settlement Officer. The revenue authorities cannot interfere with the order passed by the Inam Abolition Tribunal. Such an exercise by the revenue authorities is ex-facie *ultra vires*. It was in those circumstances that the learned Single Judge rightly interfered with the said order.

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19. For the reasons set forth above, we do not find any reasons to differ from the view taken by the learned Single Judge. The writ appeal is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

20. Needless to add, in case the appellant succeeds in the Special Tribunal Appeals pending before the said Division Bench of this Court, it is always open to him to approach the revenue authorities and seek for revenue patta on the basis of the said orders.

(R.S.K.,J.) **(V.L.N.,J.)**
04-12-2025

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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