



W.P.(MD)Nos.773 and 27783 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : **04.03.2025**

Delivered on : **11.03.2025**

CORAM:

THE HONOURABLE MR JUSTICE P.B. BALAJI

W.P.(MD)Nos.773 and 27783 of 2024

and

W.M.P.(MD)Nos.23581 and 23582 of 2024

W.P.(MD)No.773 of 2024

Nagaraj

... Petitioner

/Vs./

1. The Revenue Divisional Officer,
Office of the Revenue Divisional Office,
Sivagangai – 630 561.

2. The Tahsildar,
Manamadurai Taluk Office,
Manamadurai Taluk,
Sivagangai District.

3.Rabbani

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the entire relevant records of the impugned order passed by the second respondent vide



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Na.Ka.A11/5956/2023 dated 08.12.2023 and quash the same as illegal without considering the judgment and decree passed by this Court in S.A.No.246 of 1997, dated 17.06.2009 confirming the judgment and decree passed by the District Sessions Judge, Sivagangai, in A.S.No.54 of 1993, dated 23.11.1993 against the judgment and decree passed by the District Munsif Court, Manamadurai, in favour of the petitioner's father namely, Vellaisamy, in O.S.No.185 of 1990, dated 23.01.1992 and judgment and decree passed by the Sub Court, Manamadurai, in O.S.No. 2020 dated 18.07.2023 as res judicata, and consequently direct the respondents to forthwith issue patta to the petitioner based on the patta transfer application on 13.09.2023, within a stipulated time that may be fixed by this Court.

For Petitioner : Mr.S.Balasubramanian

For Respondents : Mr.B.Saravanan
Additional Government Pleader for R1&2
: Mr.A.Balakrishnan for R3

W.P.(MD)No.27783 of 2024

Saravanan

... Petitioner

/Vs./

1. The District Revenue Officer,
O/o. The District Revenue Office,
Sivgangai District.
- 2.The Revenue Divisional Officer,
Office of the Revenue Divisional Office,
Sivgangai District – 630 561.



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3. The Tahsildar,

Manamadurai Taluk Office,

Manamadurai Taluk,

Sivagangai District.

4. Rabbani

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to calling for the entire relevant records of the impugned order passed by the 3rd respondent vide Na.Ka.A.11/5956/2023 dated 08.12.2023 and quash the same as illegal without considering the Judgment and Decree passed by this Court in SA.No. 246/1997 dated 17.06.2009 confirming the judgement and decree passed by the District Session Judge Sivagangai in AS.No. 54 / 1993 dated 23.11.1993 against the judgement and decree passed by the District Muncif Court Manamadurai in favour of the petitioners father namely Chellaiya and Vellaisamy in O.S.No.185/1990 dated 23.01.1992 and subsequent judgment and decree passed by the Sub Court, Manamadurai, in O.S.No.23 of 2020 dated 18.07.2023 as res judicata, and consequently direct the respondents to forthwith issue joint patta to the petitioner based on the patta application dated 28.08.2023 within a stipulated time that may be fixed by this Court.

For Petitioner : Mr.R.Senthil Kumar

For Respondents : Mr.B.Saravanan
Additional Government Pleader for R1-3



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COMMON ORDER

Both these writ petitions are concerning the same subject matter and also between the same parties and therefore, with the consent of all the counsel, the writ petitions are heard together.

2. W.P.(MD)Nos.773 and 27783 of 2024 have been filed by the writ petitioners seeking to quash the impugned order passed by the Tahsildar, Manamadurai Taluk, in Na.Ka.A.11/5956/2023 dated 08.12.2023.

3. I have heard Mr.S.Balasubramanian, learned counsel for the petitioner in W.P. (MD) No. 773 of 2024, Mr. R. Senthil Kumar, learned counsel for the petitioner in W.P. (MD) No. 27783 of 2024 Mr.B.Saravanan, learned Additional Government Pleader, for the official respondents in both the writ petitions and Mr.A.Balakrishnan, learned counsel for the fourth respondent in W.P.(MD)No.773 of 2024 the writ petitions.



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4. The case of the petitioners is that one Chellakudumpan had purchased the lands in Survey No.140/1A, in patta No.360 in Rajakambeeram Revenue Village, Manamadurai Taluk, Sivagangai District, in and by registered sale deed vide document No.430/1942. The said Chellakudumpan purchased another extent of land in and by sale deed dated 08.08.1945 vide document No.2278/1945. Thereafter, the said Chellakudumpan purchased further extent of land in very same survey number vide sale deed dated 13.05.1952 in document No. 796/1952. One Abdul Kadhaar filed a suit for partition in O.S.No.185 of 1990 in respect of survey No.140/1A, 17 to an extent of 0.32.00 Hectares. The said suit was contested on the ground that the said Abdul Kadhaar did not have any right in the suit property, as his father Syed Mohamed had already sold the property. The suit was dismissed by the trial Court holding that the petitioner's father, viz., Chellaiah and Vellaisamy respectively, were the owners of the said property. Aggrieved by the said judgment and decree, the said Abdul Kadhaar filed an appeal in A.S.No.54 of 1990 before the District Sessions Court, Sivagangai. The said appeal was dismissed on 23.11.1994. As against the said



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judgment and decree, the said Abdul Kadhaar preferred a second appeal before this Court in S.A.No.246 of 1997 and the second appeal came to be dismissed on 29.06.2009, though for non prosecution. Thereby, the matter attained finality.

5. The grievance of the petitioners is that the civil Court having clearly held that the subject lands were the absolute property of the petitioner's father, the said Abdul Kadhaar and his son, namely, the private respondent, had no right in the subject property and the same came upto this Court and ended in favour of the petitioners, yet the name of Abdul Kadhaar was reflected in the joint patta. The said Vellaichamy, who is the father of the petitioner in W.P.(MD)No.773 of 2024, filed an appeal before the District Revenue Officer, Sivagangai, to remove the name of Abdul Kadhaar from the joint patta, placing reliance on the judgment of the Civil Court. However, the said appeal came to be dismissed, directing him to approach the civil Court. It is also contended by the petitioners that the private respondent, viz., Rabbani, filed a suit in O.S.No.23 of 2020 and the said suit was dismissed on the ground of *res judicata* on 18.07.2020, clearly foreclosing all the rights of the said



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Rabbani. Challenging the said order of the Tahsildar, Manamadurai Taluk, the present writ petitions have been filed.

6. The short contention of the learned counsel for the petitioners in these writ petitions is that the Tahsildar, Manamadurai Taluk, has ignored the categorical findings rendered by the competent civil courts, including the dismissal of the subsequent suit filed by the private respondent, Rabbani, on the ground of *res judicata*. Therefore, the learned counsel for the writ petitioners would submit that the impugned order directing the petitioners to once again approach the civil Court is perverse, illegal and amount to excessive jurisdiction.

7. The learned Additional Government Pleader, Mr.B.Saravanan, would submit that a detailed enquiry was conducted by the Tahsildar, Manamadurai Taluk and after conducting detailed enquiry, passed the impugned order and the same does not warrant interference.



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8. The learned counsel for the private respondent, Mr.A.Balakrishnan, would submit that the petitioners' grand father had purchased the property under registered documents, without mentioning survey number and the forefather's of the private respondent had been given free land for their livelihood and shelter, without receiving any amount. For the sake of documentation, their names were included in the joint patta. Hence, he would submit that the petitioners can claim interest only in respect of 42.48 cents and not 45.625 cents, which is only based on fraudulent release deeds executed in the year 2023. He would therefore contend that the petitioners are entitled only to patta to an extent of 42.48 cents and remaining extent of 36.64 cents belongs to the private respondent.

9. I have carefully considered the submissions advanced by the learned counsel for the parties.

10. The Tahsildar, Manamadurai Taluk, has passed the order, which is challenged in the present writ petitions on the ground that at the time



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of UDR survey, the patta was issued jointly to Vellaisamy and Abdul Kadhaar and unless there was a proper partition deed executed between the pattadhars, the request of the petitioners for subdivision and issuance of patta in their names cannot be considered. Unfortunately, the Tahsildar, has clearly ignored the judgments passed in O.S.No.185 of 1990, dated 23.01.1992 and confirmed in A.S.No.54 of 1993, dated 23.11.1993. Despite second appeal having been preferred before this Court in S.A.No.246 of 1997, the same was dismissed on 17.06.2009, confirming the judgment and decree of the Courts below. The father of the private respondent, viz., Abdul Kadhaar, was the plaintiff in O.S.No. 185 of 1990 and the appellant in A.S.No.54 of 1993 as well as in S.A.No. 246 of 1997.

11. When the case of the private respondent has been negatived and the same has attained finality and only on such basis, the petitioners sought for removing the name of the said Abdul Kadhaar in the joint patta and to issue patta in the joint names of the petitioners in these writ petitions, based on their applications dated 13.09.2023 and 28.08.2023 respectively, the Tahsildar has not even considered the fact that the suit



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filed by the private respondent's father, viz., Abdul Kadhaar, has ended against his father and the same would bind the private respondent. The private respondent cannot claim any better right than what his father claimed and right.

12. In such view of the matter, the impugned order is clearly perverse and patently illegal, especially for non consideration of the effect of the competent civil Court between the parties. In fact one another reason that requires to be considered is the fact that even the private respondent himself chose to file a suit, despite dismissal of the suit filed by his father and the same had attained finality, in O.S.No.23 of 2020 on the file of the Sub Court, Manamadurai and even the said suit has been dismissed by the Sub Court on the ground that the private respondent is re-agitating concluded issues. The said suit was dismissed on the ground of *res judicata*.

13. For all the above reasons, the impugned order in both the writ petitions is liable to be set aside. Accordingly, the impugned passed by the Tahsildar, Manamadurai Taluk, in Na.Ka.A.11/5956/2023 dated



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08.12.2023, is set aside and the Tahsildar, Manamadurai Taluk, is directed to issue patta in the joint names of the petitioners in both the writ petitions. The said exercise shall be carried out within a period of four weeks from the date of receipt of a copy of this order.

14. With the above direction, this Writ Petitions are allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No

11.03.2025

NCC : Yes / No

LS

TO:-

1. The District Revenue Officer,

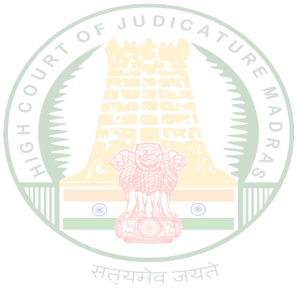
O/o. The District Revenue Office,

Sivgangai District.

2. The Revenue Divisional Officer,

Office of the Revenue Divisional Office,

Sivagangai District – 630 561.



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P.B. BALAJI, J.

LS

3. The Tahsildar,
Manamadurai Taluk Office,
Manamadurai Taluk,
Sivagangai District.

Pre- delivery Orders made in
W.P.(MD)Nos.773 and 27783 of
2024

Dated:
11.03.2025