BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : **05.03.2025**

Delivered on : **12.03.2025**

CORAM:

THE HONOURABLE MR JUSTICE P.B. BALAJI

W.P.(MD)No.1673 of 2025
and
W.M.P.(MD)No.1185 of 2025

All India Islamic Foundation,
Rep. by its Secretary,
Buhari Towers, Ground Floor,
4, Moores Road,
Chennai – 600 006. ... Petitioner

/Vs./

1. The District Collector,
O/o.The District Collector,
Madurai District, Madurai.

2.The District Revenue Officer,
O/o.The District Revenue Officer,
Madurai District, Madurai.

3.The Tahsildar,
Madurai North Taluk,
Madurai District.

4.V.Malaichamy ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the order passed by the second respondent in his proceedings in Ni.Mu.No. E-2089502/2024/G5 dated 27.11.2024 and quash the same illegal.

For Petitioner : Mr.B.Saravanan, Senior Counsel
for M/s.Ajmal Associates

For Respondents : Mr.B.Saravanan
Additional Government Pleader for R1-3
: Mr.C.Ezhilarasan for R4

ORDER

This Writ petition has been filed challenging the order of the second respondent in Ni.Mu.No.E-2089502/2024/G5 dated 27.11.2024.

2. I have heard Mr.B.Saravanan, learned Senior Counsel, appearing for M/s. Ajmal Associates, learned counsel for the petitioner, Mr.B.Saravanan, learned Additional Government Pleader, for the respondents 1 to 3 and Mr.C.Ezhilarasan, learned counsel for the fourth respondent.

3. The case of the petitioner is that the petitioner Society runs an Educational Institution under the name and style of "Cresent

Matriculation Girls Higher Secondary School, Kadavoor Village, Madurai, amongst several other Educational Institutions. The property measuring 7.50 Acres comprised in S.No.90/1B, Kadavoor Village, Madurai North Taluk, Madurai District, is claimed to be an absolute property of the petitioner, the property having been purchased under a registered sale deed dated 19.09.1996, in document No.2165/1997, from the then owners, S.A.C. Azhagan and others. According to the petitioner Trust, the lands originally belonged to one Solai Azhagu Mooppan and the grand son of said Solai Azhagu Mooppan,viz., Chinna Azhagan and his son S.A.C. Azhagan have sold the subject lands measuring 7.50 cents to the petitioner Society. The petitioner, pursuant to the said sale deed, dated 19.09.1996 in his favour has also obtained patta No.9. According to the petitioner, the said lands along with adjoining lands have been lawfully acquired by the petitioner Trust and the entire land was brought under compound wall and has been in absolute physical possession and enjoyment of the petitioner as a single plot. The petitioner would also claim to have constructed buildings within the said extent of 92 Acres where the Cresent Matriculation Girls Higher Secondary School has been established and being run for the past almost three decades.

4. While so, the fourth respondent has moved the second respondent for rectification of an alleged error in the UDR records and sought for mutation of patta in his name, claiming that the said land belonged to his great grand father, So.Azhagan. According to the petitioner, the fourth respondent has taken advantage of the original land owner S.A.C. Azhagan's name being similar to So.Azhagan and managed to get his name included in the UDR records. The second respondent by order dated 27.11.2024 cancelled the patta in the name of the Secretary of the Trust and directed mutation of the patta in the name of the fourth respondent.

5. The learned Senior Counsel for the petitioner, Mr.B.Saravanan, would submit that the fourth respondent has no *iota* of right in Survey No.90/1B and has mischievously approached the second respondent taking advantage of similarity of the petitioner's predecessors in title's name Solai Azhagu Moopan and his grand son S.A.C.Azhagan to So. Azhagan, whose the fourth respondent claims to be his great grand father and thereby sought for inclusion of the fourth respondent's name.

6. The learned Senior Counsel would further submit that the fourth respondent has not been able to establish his entitlement to the subject lands, excepting for the similarities in the name as referred herein above. The learned Senior Counsel would further submit that the fourth respondent has not been able to give satisfactory explanation as to the initial or the name Azhagu Mooppan to claim lawful title to the subject lands. He would also point out that though the fourth respondent claims to be a successor in interest of one So.Azhagan, in his petition to the second respondent, he had referred to the said person, So.Azhagan (சொ.அழகன்), however, in the written argument, he referred to him as Soo.Azhagan (சோ.அழகன்).

7. The learned Senior Counsel would point out that without noticing the said discrepancy in the name of the fourth respondent, the second respondent has merely referred the name as Azhagu Moopan, which was not the case projected even by the fourth respondent. He would further contend that the claim of the fourth respondent cannot qualify to be rectification of any error in the UDR and the second

respondent ought to have seen that the dispute was with regard to the title of the subject lands and identity of different persons and their names. Therefore, the learned Senior Counsel would contend that the second respondent was not even competent to decide the issue as to whether the fourth respondent's predecessors in title had any right in the subject lands. The learned Senior Counsel would further submit that the second respondent ought to have relegated the fourth respondent to approach the competent civil Court and establish his claim. The learned Senior Counsel would also place reliance on G.O.(Ms.)385, Revenue Department, dated 17.08.2004, which empowers the District Revenue Officer only to rectify the defects that arose during updating of UDR records and no power has been vested with the District Revenue Officer to decide the question of title.

8. The learned Senior Counsel would also place reliance on the decisions of the Hon'ble Division Bench of this Court reported in ***2011 (5) CTC 94 (Vishwas Footwear Company Ltd., V. The District Collector)*** and reported in ***2011 (5) CTC 241 (C.Sabesan Chettiar (Deceased) V. The District Revenue Officer)***. The learned Senior

Counsel would therefore pray for the writ petition being allowed.

9. Per contra, the learned counsel for the fourth respondent, Mr.C.Ezhilarasan, would contend that the sale deed in favour of the petitioner Trust dated 19.09.1997 has been set aside by the District Registrar and therefore, the petitioner cannot claim any right under the said sale deed. He would further submit that in respect of subject survey No.90/1B, the fourth respondent has never be put on notice in earlier proceedings and the petitioner has also not established as to how their vendors got title to subject survey No.90/1B. He would further submit that in respect of R.S.No.90/2 measuring 7.87 Acres, covered by patta No.9, the petitioner had filed a suit for declaration in title in O.S.No.13 of 2005 and after elaborate trial, the said suit was dismissed. The learned counsel for the fourth respondent would further submit that even in the said suit, the claim of the petitioner was only based on the very same sale deed under which they claimed title to survey No.90/1B as well. He would further submit that as against the dismissal of O.S.No.39 of 2005, the petitioner Trust also preferred and appeal in A.S.No. 30 of 2002 and the same was dismissed on 21.09.2010 and as against the mere findings,

the petitioner filed second appeal in S.A(MD) No.343 of 2013, which is pending for consideration before this Court. The learned counsel would therefore submit that the order of the second respondent cancelling the patta in the name of the petitioner's vendor was absolutely right and no interference is warranted and he sought for dismissal of the writ petition.

10.The learned Additional Government Pleader, Mr.B.Saravanan, would also support the findings arrived at by the second respondent and contend that the said order is a well reasoned order, after giving due opportunity to the rival parties and therefore no exception can be taken to the said order.

11. I have carefully considered the submissions advanced by the learned counsel on either side. I have gone through the impugned order as well as the decisions on which the reliance placed on by the learned Senior Counsel appearing for the petitioner.

12. The dispute pertains to survey No.90/1B. It is the case of the petitioner that the land in survey No.90/1B belongs to the petitioner Trust

and has been in their possession and enjoyment for the past several decades. According to the petitioner, patta was also granted to them in the year 1996-1997 and adjourning the subject lands in survey No.90/1B and other lands are also owned by the petitioner and a total extent of 92 Acres has been compounded and has been in enjoyment of the petitioner Trust as a single plot. However, it is the case of the fourth respondent that the District Registrar has set aside the sale deed under which the petitioner purchased the property in the year 1996, by sale deed dated 19.09.1996. However, the said deed was registered as document No. 2165/1997. It is seen from the said sale deed that the petitioner Society purchased the subject lands measuring 7.5 Acres from legal heirs of S.A. Chinna Azhagan and others under the said sale deed. The petitioner has acquired two pockets of lands one 7.5 Acres in S.No.90/1B and another 7.87 Acres in survey No.90/2. It is only in respect of survey No.90/2 that proceedings were initiated under Section 77(A) of the Registration Act and the District Registrar has also proceeded to cancel the said sale deed in favour of the petitioner. It is however brought to my notice that challenging the said order of the District Registrar, the petitioner has already preferred a revision and the same is pending.

13. Be that as it may, recently in a judgment of the Division Bench of this Court in the case of ***M.Kathirvel vs. The Inspector General of Registration***, reported in ***2024 (4) CTC 769***, Section 77-A of the Registration Act has been struck down is unconstitutional, holding that the registering authority has no power to set aside a registered document conveying title in immovable properties. Therefore, it is only a matter of time before the revision preferred by the petitioner will be taken up and allowed. In any event, it was not even the case of the fourth respondent that the sale deed of the petitioner was cancelled and therefore the patta in the name of the Secretary of the petitioner Trust. Even otherwise as seen from the impugned order, the second respondent has also not cited the cancellation of the sale deed in favour of the petitioner, as the reason for cancellation of patta and for issuance of patta to the fourth respondent. In fact, the fourth respondent in his application dated 03.06.2024 has specifically alleged that the sale deed in favour of the petitioner Trust has been fraudulently executed and registered and that fraud was played on by the officials by S.A.C.Azhagan, even during the time of UDR survey. In and by the impugned order, the second

respondent even while extracting the names of pattadhars, has reflected the name of Azhagu Mooppan in patta No.55, before the UDR, and the name is not So.Azhagan, as claimed by the fourth respondent. After UDR, it is shown as Azhagan, S/o.Raman and as per the present records, in patta No.9, survey No.90/1B has been mutated in the name of the Secretary of the petitioner Trust.

14. The second respondent has also found that the revenue records are reflecting different names in respect of very same survey No. 90/1B and having found so, the second respondent ought not to have jumped to the conclusion that it is a case of UDR correction. In fact, the second respondent having noticed complex issues existing, should have stayed away from any discussion with regard to title issues pertaining to subject lands and ought to have relegated the fourth respondent to approach the competent civil Court, without disturbing the existing revenue records standing in the name of the petitioner Society. In fact, the second respondent has even directed the Tahsildar to conduct an enquiry and after hearing the petitioner and the fourth respondent and thereafter mutated the patta in the name of the person, who is found to be

entitled to the same.. Further, I find that the fourth respondent has not been able to show as to how, he claims a right. Absolutely no documents were filed by the fourth respondent to even show a satisfactory link or connection to the original owners of the property. The fourth respondent has clearly rested his entire case on the discrepancy in the names of the original land owners and apart from the same, the fourth respondent has not been able to produce any material documentary evidence to fortify his claim in and over the subject lands measuring 7.5 Acres. The second respondent ought to have directed the fourth respondent to approach the competent civil Court. This Court in ***Vishwas***'s case ***and C.Sabesan Chettiar***'s case has repeatedly held that the revenue authorities are not competent to go into disputed questions of title and whereever the officials encounter complex questions of title, they should direct the parties to resolve the same by approaching the competent civil Court. This Court has repeatedly come down heavily on the revenue authorities assuming jurisdiction in such matters and adjudicating civil disputes. In the present case as well, the revenue records have been mutated in the name of the petitioner Society, close to 30 years back and when the fourth respondent has made an application seeking cancellation of the said patta and issuance of patta in his name. The second respondent clearly erred in assuming jurisdiction and adjudicating the complex factual disputes revolving around the ownership of the subject lands. These matters can be decided only by a competent civil Court, after parties lead oral and documentary evidence and cannot be decided in summary enquiry proceedings conducted by revenue officials.

15. In view of the above, the impugned order passed by the second respondent is liable to be set aside and accordingly, this writ petition is allowed and the order of the second respondent in Ni.Mu.No. E-2089502/2024/G5 dated 27.11.2024 is set aside. It is open to the fourth respondent to approach the competent civil Court to establish his claim of title to subject survey No.90/1B, in accordance with law. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No

NCC : Yes / No

LS

12.03.2025

P.B. BALAJI, J.

LS

TO:-

1. The District Collector,
O/o.The District Collector,
Madurai District,
Madurai.

2. The District Revenue Officer,
O/o.The District Revenue Officer,
Madurai District,
Madurai.

3. The Tahsildar,
Madurai North Taluk,
Madurai District.

Pre-delivery Order made in
W.P.(MD)No.1673 of 2025

Dated:
12.03.2025