



W.P.(MD)No.2108 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : **06.03.2025**

Delivered on : **11.03.2025**

CORAM:

THE HONOURABLE MR JUSTICE P.B. BALAJI

W.P.(MD)No.2108 of 2024
and W.M.P.(MD)No.2107 of 2024

Somasundaram

... Petitioner

/Vs./

1. The District Collector

O/o. the District Collector,
Sivagangai District.

2. The Revenue Divisional Officer,

O/o. the Revenue Divisional Office,
Sivagangai District.

3. The Tahsildar

O/o. Tahsildar Office,
Sivagangai District.

4. The Village Administrative Officer,

O/o. the Village Administrative Office,
Thamaraki North, Sivagangai District.

5. Arumugam

... Respondents

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



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relating to the impugned order passed by the 3rd respondent in Mu.Mu. A3/4517/2023 dated 06.11.2023 to quash the same and consequently seeking direction to enter the petitioner's name in the patta as well as in the computerized patta in 10-1 form in Survey No.157/6 in Old Patta No. 455 New Patta No.1316 to the extent of 0.45.5 Ares situating in Thamaraki North Group, Sivagangai Taluk, Sivagangai District.

For Petitioner : Mr.S.Vanchinathan

For Respondents : Mr.M.Lingadurai
Special Government Pleader for R1-4

: Mrs.Mamtha for R5

ORDER

The writ petitioner challenges the order of the third respondent in Mu.Mu.No.A3/4517/2023 dated 06.11.2023 and seeks consequent direction to enter the petitioner's name in the patta as well as in the computerized patta in 10-1 Form in Survey No.157/6 in old patta No.455 new patta No.1316 to the extent of 0.45.5 Ares situating in Thamaraki North Group, Sivagangai Taluk, Sivagangai District.

2. I have heard Mr.S.Vanchinathan, learned counsel for the petitioner, Mr.M.Lingadurai, learned Special Government Pleader for the



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respondents 1 to 4 and Mrs.Mamtha, learned counsel for the fifth respondent.

3. The case of the petitioner is that the petitioner's family owned lands in Survey No.157/6 covered by old patta No.455, new patta No. 1316 measuring to an extent of 0.45.5 Ares. In the year 1985, patta was wrongly changed in the name of one Dharman @ Dharmaraj. The petitioner had approached the revenue authorities to rectify the error and issue fresh patta in the petitioner's name. While being so, one Arumugam, who is the grand son of the said Dharman @ Dharmaraj, was trying to encroach on the said land. Hence, the petitioner's wife filed a suit in O.S.No.6 of 2006 for permanent injunction before the District Munsif, Sivagangai. The said suit came to be decreed in favour of the petitioner's wife. Yet another suit was filed by the niece of said Dharman @ Dharmaraj, viz., Mantha Kalai, in O.S.No.183 of 2009. However, pending the suit, the said Mantha Kalai died and the suit was dismissed as abated as early as on 16.08.2009 and there has been no application even to restore the suit thereafter. The petitioner further states that the third respondent passed an order taking into account all of the above



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factors on 19.10.2016, and directed the patta to be mutated in the name of the petitioner and new patta No.1316 was also assigned. Since the petitioner's name was not reflecting in the computerized patta, the petitioner made a representation on 29.07.2019 before the first respondent, which was forwarded by the first respondent to the third respondent on 31.07.2019. Since no action was taken on the said representation, the petitioner filed a writ petition in W.P.(MD)No.8234 of 2023 and the said writ petition was disposed of on 15.06.2023, directing the respondents to conduct enquiry. In compliance with the orders of this Court, an enquiry was conducted and the third respondent passed the impugned order on 06.11.2023, rejecting the request for including the petitioner's name on the ground that the petitioner has not produced any documents to establish his title and hence the patta could not be transferred in the petitioner's name.

4. The learned counsel for the petitioner would submit that the said order passed by the third respondent is non speaking and also a cryptic order. According to the learned counsel for the petitioner, documents pertaining to the suits filed and the decree in favour of the petitioner



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were all brought to the notice of the third respondent and without considering the same, the third respondent arbitrarily rejected the petitioner's application, especially when the civil Court has already decided all the contentions that have raised by the fifth respondent herein.

5. The learned Special Government Pleader, Mr.M.Lingadurai, would contend that the impugned order passed by the second respondent does not deserve any interference as it is a well considered order, after affording sufficient opportunity to the petitioner to make out the petitioner for transfer of patta.

6. Mrs.Mamtha, learned counsel for the fifth respondent would submit that the suit filed by the petitioner is only for a bare injunction and that too a suit only against the fifth respondent. The suit has been decreed only for a permanent injunction. No reliance can be placed on the decree to seek mutation of patta in the name of the petitioner.



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7. I have carefully considered the submissions advanced by the learned counsel on either side. I have also gone through the records, including the impugned order.

8. The learned counsel for the fifth respondent has also filed a typed set of papers and invited my attention to the various tax receipts in the name of the private respondent's relatives and the proceedings of the District Revenue Officer, Sivagangai, dated 25.03.2004 in and by which in the name of Dharman was directed to be mutated in the revenue records as early as in the year 2004. However, on going through the said proceedings of the District Revenue Officer, dated 25.03.2004, I find that the mutation in the name of Dharman was behind back of the petitioner and no notice had been given. Though there is force in the contention of the learned counsel for the fifth respondent that when the District Revenue Officer, as early as in the year 2004, had mutated patta in the name of Dharman, I find that the said order came to be passed only on the ground that no document had been furnished by both the petitioner as well as the fifth respondent herein. It is only subsequent to the said order that the civil suit had been filed and a competent civil Court has given a



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categorical finding that the petitioner proved his substantial right over the lands and on the contrary, the fifth respondent has not been able to prove his right over the subject lands. Though it is contended by the learned counsel for the fifth respondent that the said suit was filed only against the fifth respondent and will not bind other legal heirs, I find that the specific issue has been framed by the civil Court as to whether the suit is for non-joinder of the other legal heirs, and after contest, the trial Court also ended a categorical finding that the suit is not bad for non-joinder. In fact, in the said suit, the fifth respondent represented the estate of his father Dharman. Therefore, I am unable to countenance the said arguments advanced by the fifth respondent.

9. On a perusal of the order passed by the trial Court, the trial Court has incidentally gone into the question of title over the property and found the petitioner to be entitled to right over the subject property. The said findings have been rendered against the fifth respondent and therefore, the fifth respondent is bound by the said findings rendered in the civil suit. Subsequently, the third respondent by order dated 06.11.2023, also directed issuance of patta in the name of the petitioner



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and such proceedings were after hearing the fifth respondent herein.

Therefore, ignoring the said well considered findings rendered by the third respondent, after conducting due enquiry, the second respondent ought not to have rejected the petitioner's request, without even considering the impact of the judgment of a competent civil Court. Therefore, the impugned order is perverse, patent illegal and consequently, liable to be set aside.

10. In fine, this writ petition is allowed and the impugned order passed by the third respondent in Mu.Mu.No.A3/4517/2023 dated 06.11.2023 is hereby set aside and a direction is issued to the second respondent to enter the petitioner's name in the patta, both in the physical records as well as the computerized Form 10-1. The said exercise shall be carried out within a period of four (4) weeks from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No
NCC : Yes / No
LS

11.03.2025



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P.B. BALAJI, J.

LS

Pre-delivery Order made in
W.P.(MD)No.2108 of 2024

Dated:
11.03.2025