



W.P.(MD)Nos.4522 & 8184 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 23.04.2025

DELIVERED ON : 30.04.2025

CORAM

THE HON'BLE MR.JUSTICE P.B.BALAJI

W.P.(MD)Nos.4522 & 8184 of 2024

and

W.M.P.(MD)No.7385 of 2024

Pandian : Petitioner in W.P.(MD)No.4522/24
Kamalanathan : Petitioner in W.P.(MD)No.8184/24

Vs.

- 1.The District Collector,
District Collectorate,
Madurai District,
Madurai – 625 020.
- 2.The District Revenue Officer,
District Collectorate Campus,
Madurai District,
Madurai – 625 020.
- 3.The Revenue Divisional Officer,
District Collectorate Campus,
Madurai District,
Madurai – 625 020.



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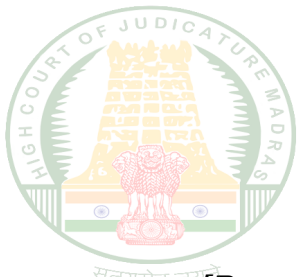
4.The Tahsildar,
Madurai South,
District Collectorate Campus,
Madurai District,
Madurai – 625 020.

5.S.Ganesan : Respondents in W.P.(MD)No.4522/24

1.The Tahsildar,
Madurai South,
District Collectorate Campus,
Madurai.

2.Ganesan : Respondents in W.P.(MD)No.8184/24

PRAYER in W.P.(MD)No.4522 of 2024: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order in D.R.No.2023/0103/24/299563TR dated 20.12.2023 passed by the fourth respondent and quash the same and consequently direct the fourth respondent to restore the same to its original position in respect of S.Nos.64/10, 62/18 and 82/4 running total to the extent of 0.21.50 Ares situated at Viraganur Village, Madurai District, on the basis of the petitioner's representation dated 09.01.2024 within a stipulated time that may be fixed by this Court.



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[Prayer amended vide order dated 04.04.2025 in W.M.P.(MD)No. 7285 of 2025 in W.P.(MD)No.4522 of 2024]

PRAYER in W.P.(MD)No.8184 of 2024: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, directing the first respondent to cancel the patta No. 2663 standing in the name of the second respondent and consequently directing the first respondent to restore the petitioner's patta No.2395 in the light of earlier patta transfer proceedings in DR No.2018/0103/24/073967TR dated 01.02.2019.

W.P.(MD)No.4522 of 2024:

For Petitioner : Mr.M.Prabhakaran
For Respondents 1 to 4 : Mrs.K.Malathi
Additional Government Pleader
For Respondent No.5 : Mr.A.Siva Subramaian

W.P.(MD)No.8184 of 2024:

For Petitioner : Mr.A.Balaji
For Respondent No.1 : Mrs.K.Malathi
Additional Government Pleader
For Respondent No.2 : Mr.A.Siva Subramaian



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COMMON ORDER

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In W.P.(MD)No.4522 of 2024, the petitioner having originally sought for relief of issuance of a Writ of Mandamus to cancel the patta issued in the name of the fifth respondent and to restore the patta to its original position, by disposing of the petitioner's representation dated 09.01.2024, subsequently, amended the prayer to the relief of Certiorarified Mandamus, to quash the order dated 20.12.2023, passed by the fourth respondent and to consequently restore the patta to its original position on the basis of the petitioner's representation dated 09.01.2024.

2.In W.P.(MD)No.8184 of 2024, the petitioner seeks issuance of a Writ of Mandamus to direct the first respondent to cancel the patta standing in the name of the second respondent and to consequently restore the Patta No.2395, in the light of proceedings dated 01.02.2019.

3.I have heard Mr.A.Prabhakaran, learned Counsel for the petitioner in W.P.(MD)No.4522 of 2024, Mr.A.Balaji, learned Counsel for the petitioner in W.P.(MD)No.8184 of 2024, Mrs.K.Malathi, learned Additional Government Pleader for the respondents 1 to 4 in W.P.(MD)No.4522 of 2024 & first respondent in W.P.(MD)No.8184 of

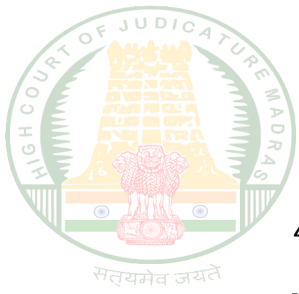


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2024 and Mr.A.Siva Subramanian, learned Counsel for the fifth respondent in W.P.(MD)No.4522 of 2024 & second respondent W.P.(MD)No.8184 of 2024.

4.The brief facts of the case put forth by the writ petitioners is as follows:

4.1.The petitioner in W.P.(MD)No.4522 of 2024 claims to have purchased the property in S.No.82/4, measuring 33 cents, in and by a registered sale deed dated 05.04.2013. However, the vendors of the petitioner filed a suit in O.S.No.62 of 2011 before the District Munsif Court, Madurai, which was dismissed on 07.12.2023. The fourth respondent, according to the petitioner, unilaterally cancelled the order of the Revenue Divisional Officer passed on an enquiry that was conducted pending the above suit in O.S.No.62 of 2011. The fourth respondent in and by proceedings dated 29.09.2017, had issued orders in favour of the fifth respondent even before the judgment of the District Munsif Court was made available and time limit for preferring first appeal had also not expired. The further grievance of the petitioner is that the fourth respondent also changed the patta on 20.12.2023, without giving any notice to the petitioner and his wife, who had purchased the property jointly. The petitioner therefore, submitted a representation on 09.01.2024, seeking the order mutating patta to be cancelled.



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4.2.In W.P.(MD)No.8184 of 2022, the petitioner seeks cancellation of the patta in favour of the second respondent who is the fifth respondent in W.P.(MD)No.4522 of 2024. The petitioner in W.P.(MD)No.8184 of 2024, has purchased the property measuring 33 cents comprised in S.No.82/4 from Malathi, who is the wife of the petitioner in W.P.(MD)No.4522 of 2024. Having purchased the property, on 31.05.2023, the petitioner approached the Tahsildar first respondent for transfer of patta, standing in the name of Malathi, the petitioner's vendor. Patta was also transferred at the request of the petitioner. However, without any notice to the petitioner, the patta was cancelled. Hence, the petitioner has sought for issuance of a Writ of Mandamus, to direct the respondent to cancel Patta No.2663 issued to the second respondent, who is the fifth respondent in the other Writ Petition in W.P.(MD)No.4522 of 2024 and to restore Patta No.2395.

5.Learned Counsel for the petitioners would contend that the cancellation of patta standing in the name of the petitioners could not have been done without giving an opportunity to the petitioners and therefore, on the limited ground of violation of principles of natural justice, the writ petitions were sought to be allowed. Learned Counsel for the petitioner has also relied on the orders of this Court in ***W.P.No.13311 of 2022 [Kasthuri Vs. The Revenue***



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***Divisional Officer and others]* dated 25.05.2022 and W.P.No.**

376 of 2022 [A.Siva Subramanian Vs. The District Revenue

***Officer and others]* dated 15.06.2023, where this Court has held that pending civil suit before the competent Court of law, the revenue authorities are not empowered to conduct enquiry and pass orders either regarding issuance of patta or cancellation of patta and that only after resolving civil dispute between the parties, either of the parties are at liberty to approach the revenue authorities by filing appropriate application for grant or cancellation of patta.**

6.The contesting respondent namely fifth respondent in W.P.(MD)No.4522 of 2024 and second respondent in W.P.(MD)No.8184 of 2024, would contend that the subject lands in S.No.82/4 amongst other lands in S.No.64/10 and 64/18, were originally assigned to the said respondent's grandfather K.A.Periyakaruppanambalam in the year 1971, in terms of the order of the Assistant Settlement Officer. After the demise of the said Periyakaruppanambalam, the contesting respondent's family has been in possession and enjoyment of the said lands. However, the vendor of the writ petitioner in W.P.(MD)No. 4522 of 2024, taking advantage of his father's name being Kavalkara Periyakaruppanambalam had fraudulently changed patta in his name and thereafter, sold the property to the writ petitioner in W.P.(MD)No.4522 of 2024 and his wife.



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7. According to the contesting respondent, the writ petitioners are not bonafide purchasers and in fact, the writ petitioner's wife Malathi, was herself the plaintiff in O.S.No.62 of 2011 and the averments in support of the writ affidavit are falsely projected, as if the suit was filed by her vendor Chelliah alone and thereafter, it was dismissed for non-prosecution. It is further contended by the contesting respondent that the writ petitioner and his wife Malathi, had even filed a suit in O.S.No.153 of 2013, seeking reliefs of declaration and permanent injunction and said suit was also dismissed for default on 08.10.2014. Therefore, according to the contesting respondent, the petitioner in W.P.(MD)No.4522 of 2024, has suppressed material facts and has approached the Court with unclean hands.

8. As regards the subject survey No.82/4, it is contended that in proceedings before the Assistant Settlement Officer dated 31.08.1971, Patta No.290 was issued in favour of K.A.Periyakaruppanambalam, the grandfather of the contesting respondent, son of Karuppanan Ambalam. The said Periyakaruppanambalam died on 05.05.1974 and subsequently, the legal heirs were in enjoyment of the subject lands. However, by playing fraud, the vendor of the writ petitioner by misrepresenting



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facts, transferred patta in his name on 06.08.2010 in Patta No.761, thereby joint patta was reflecting the names of Chelliah, Ravichandran, Murugan, Saravanan and Karthick. Since the said mutation was without the knowledge or notice of the contesting respondent, the contesting respondent moved an application for cancellation of patta before the Revenue Divisional Officer.

9.According to the contesting respondent, it was only at this stage that O.S.No.62 of 2011, came to be filed and pending the said suit, the property was sold to Malathi, wife of the writ petitioner in W.P.(MD)No.4522 of 2024. It is further contended that no death certificate or legal heir certificate has been produced to substantiate the claim of the plaintiffs in O.S.No.62 of 2011, that they are the legal heirs of Periyakaruppanambalam and the said suit was also rightly dismissed. It is only thereafter, that the contesting respondent has made an application on 16.12.2023 and the impugned orders came to be passed restoring the patta in the names of the legal heirs of the contesting respondent's grandfather namely Shanmugaraja, Chelliah @ Periyakaruppanambalam and Maharajan.

10.The learned Counsel for the contesting respondent would further submit that the projection of a case as if the pattas of the writ petitioners were unilaterally cancelled is totally misconceived, as the



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patta mutation was only pursuant to the judgment and decree in O.S.No.62 of 2011 and therefore, the petitioners cannot harp on the solitary point that they were not put on notice before the cancellation. Learned Counsel would further contend that the petitioners, especially the petitioner in W.P.(MD)No.4522 of 2024, had attempted to get the relief before the Civil Court not once, but twice namely, in O.S.No.62 of 2011 as well as in O.S.No.153 of 2013. Therefore, the petitioner in W.P.(MD)No.4522 of 2024 is guilty of suppression of facts and the second suit has also not been referred to in the affidavit filed in support of the Writ Petition. Therefore, according to the learned Counsel for the contesting respondent, the petitioners are guilty of suppression of material facts and are not entitled to any relief.

11.I have carefully considered the submissions advanced by the learned Counsel on either side.

12.It is not in dispute that O.S.No.62 of 2011 was filed by the vendor of the petitioner in W.P.(MD)No.4522 of 2024, where the petitioner's wife Malathi also joined the said institution of the suit as the seventh plaintiff and in fact, the petitioner himself was the sixth plaintiff in the said suit. The said suit came to be dismissed after elaborate trial on 07.12.2023. Within a span of few days on



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20.12.2023, the impugned order came to be passed, transferring patta in the name of the contesting respondent.

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13.The core argument of the learned Counsel for the petitioners is that when even the certified copy of the judgment and decree in O.S.No.62 of 2011, had not been made available by the Registry of the Court, there could have been no occasion for the fourth respondent Tahsildar to have taken cognizance of the said verdict of the Civil Court and proceed to pass orders. In fact, it is the further contention of the learned Counsel for the petitioners that the writ petitioner in W.P.(MD)No.4522 of 2024 had a right of first appeal and therefore, there was no finality to the litigation and in a hurried manner, the patta transfer proceedings have taken place.

14.It is seen from the typed set of papers filed by the contesting respondent that another suit had been filed in O.S.No.153 of 2013, by the petitioner, Pandian, in W.P.(MD)No.4522 of 2024 and his wife Malathi, against the contesting respondent and two others. The said suit was dismissed for default. However, on going through the judgment and decree, which is made available by the contesting respondent, it is seen that the suit was for declaration to declare the registered mortgage deed dated 29.09.2010 executed by the contesting respondent as null and void and for consequential



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permanent injunction to restrain the contesting respondent from interfering with the plaintiff's peaceful possession and enjoyment of the suit properties.

15.In all fairness, the writ petitioners ought to have disclosed the factum of filing of the said suit. However, there is no whisper about the said suit in the affidavit filed in support of the writ petitioner in W.P.(MD)No.4522 of 2024. Even insofar as the other suit in O.S.No.62 of 2011, the writ petitioner has chosen to give a distorted version, as if the said suit was filed by the writ petitioner's vendor Chelliah and his successors and that the suit had been dismissed on 07.12.2023 and judgment copy was not made available till the filing of the writ petition.

16.In the light of the above, when the writ petitioners have not approached this Court with clean hands, it is not fair on their part to expect equity or any discretion to be exercised in their favour. Admittedly, whether the requirement of a notice to be issued to the writ petitioners before the impugned order came to be passed is necessary or not, the fact remains that the suit filed by the writ petitioner in W.P.(MD)No.4522 of 2024 and his wife in O.S.No.62 of 2011 has been dismissed. The petitioner in W.P.(MD)No.8184 of 2024, claims only under the petitioner in W.P.(MD)No.4522 of 2024



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Pandian's wife Malathi. Therefore, the said petitioner cannot get any better right than the Pandian and Malathi.

17.The suit filed in O.S.No.62 of 2011 is one for declaration that the plaintiffs are the absolute owners of the subject property. The contesting respondent in these writ petitions is the sole defendant in the said suit. Therefore, it cannot be denied by the writ petitioners that their suit for declaration of title has been dismissed. The argument of the counsel for the petitioners is that the contesting respondent has not filed any suit or even a counter claim and the sale deeds of the writ petitioners have not also been challenged by the contesting respondent. In such circumstances, it is the argument of the learned Counsel for the petitioners that the contesting respondent, based on the dismissal of the suit filed by the writ petitioner in W.P.(MD)No.4522 of 2024, along with his wife and others cannot ordinarily confer a right to the contesting respondent to seek mutation in his favour, by cancelling the patta standing in favour of the writ petitioners.

18.No doubt, the argument put forth by the petitioners that without even waiting for the copy of the judgment and decree in O.S.No.62 of 2011, to be issued and the petitioners could exercise their right of appeal, the impugned order came to be passed based

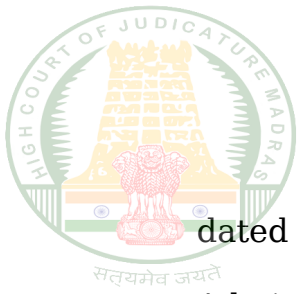


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on a representation of the contesting respondent, immediately after the dismissal of the suit. It is only in this connection that the decisions of this Court in W.P.No.13311 of 2022 dated 25.05.2022 and W.P.No.376 of 2022 dated 15.06.2023 has been relied on by the learned Counsel for the petitioners.

19.In both the cases, admittedly, on facts, this Court found that substantive suits were pending on the date of the revenue authorities initiating the proceedings. Here, contrary to such facts, the suit has admittedly been disposed of, which is not denied by the writ petitioners. Moreover, the suit is one for declaration of title and filed only against the contesting respondent herein as the sole defendant. Therefore, certainly, it cannot be said that the contesting respondent having succeeded in a title suit, cannot take advantage of his successfully getting the suit for declaration filed by the writ petitioner and the other title holders dismissed. It is seen that after the dismissal of the suit on 07.12.2023, the contesting respondent has made an application on 16.12.2023 and sought for cancellation of patta, based on which the impugned order came to be passed.

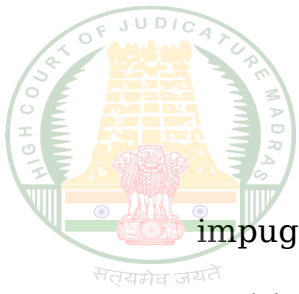
20.On going through the impugned proceedings dated 20.12.2023, I am able to see that no notice was issued to the writ petitioners and acting on the request of the contesting respondent,



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dated 16.12.2023, a report has been called for from the Village Administrative Officer and based on the same, the patta transfer order has been passed. Even a copy of the said proceedings has not been marked to the writ petitioners. I also do not find that the dismissal of the suit in O.S.No.62 of 2011, to be the reason for mutation being ordered. Therefore, even assuming that the said suit had been disposed of in favour of the contesting respondent, when it has not even been referred to in the impugned proceedings and no notice has also been served on the petitioners, especially when patta was mutated in the name of the petitioners, it would have been proper to have put them on notice before effecting the transfer.

21.Even though, I am not able to condone the conduct of the writ petitioners in suppressing material facts and also distorting facts, the action of the respondents also does not appear to be clean. There was absolutely no necessity for such haste in passing orders based on the contesting respondent's application. It is only on 07.12.2023 that the suit has been dismissed and on 16.12.2023, the contesting respondent gives an application and the Village Administrative Officer gave a report on 20.12.2023 and on the same day, patta transfer is effected. Therefore, I am constrained to interfere and set aside the impugned orders. Consequently, and necessarily, the patta has to be restored as it stood prior to the



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impugned order dated 20.12.2023, namely in the names of the writ petitioners, Pandian and Kamalanathan. It is not brought to my notice as to whether any first appeal has been preferred by the writ petitioner in W.P.(MD)No.4522 of 2024, challenging the judgment and decree in O.S.No.62 of 2011.

22.Therefore, in the light of the above, the Writ Petitions are disposed of, in the following manner:

(i) The impugned order dated 20.12.2023 in W.P. (MD)No.4522 of 2024, is set aside and patta shall be restored in the name of the petitioner Pandian.

(ii) In W.P.(MD)No.8184 of 2024, the Writ Petition is allowed and the first respondent is directed to restore the Patta No.2395 in the name of the writ petitioner.

(iii) The third respondent in W.P.(MD)No.4522 of 2024, shall hold enquiry and ascertain whether

(a) the judgment and decree in O.S.No. 62/11 has become final;

(b) If so, the third respondent shall conduct enquiry by giving a fair opportunity to the petitioners as well as contesting respondent Ganesan and pass final orders with regard to mutation of revenue records after considering the documents relied on by them, including the effect of the judgment and decree in O.S.No.62 of 2011;



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(c) However, in the event of the judgment and decree in O.S.No.62 of 2011 having been challenged by the writ petitioner in W.P. (MD)No.4522 of 2024 and other plaintiffs therein, then the third respondent shall await the decision of the first appeal before passing any orders regarding mutation.

(d) If clauses (a) & (b) are applicable, then the third respondent shall conduct an enquiry and pass final orders within a period of twelve [12] weeks from the date of receipt of a copy of this order, on merits and in accordance with law.

There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

30.04.2025

Index :Yes / No

Internet : Yes / No

NCC : Yes/No

MR



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To

- 1.The District Collector,
District Collectorate,
Madurai District,
Madurai – 625 020.
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- 3.The Revenue Divisional Officer,
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- 4.The Tahsildar,
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P.B.BALAJI., J.

MR

PRE-DELIVERY COMMON ORDER MADE IN
W.P.(MD)Nos.4522 & 8184 of 2024

30.04.2025