



W.P.(MD)No.10069 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.01.2025

CORAM:

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.(MD)No.10069 of 2024
and WMP(MD)No.11827 of 2024

M/s.The Ramco Cements Ltd.,
A Company incorporated under the
Companies Act through its
Authorised Signatory having its
Registered Office at Ramamandiram,
Tenkasi Road, Rajapalayam
and Corporate Office at
98A, Dr.Radhakrishnan Road,
5th Floor, Mylapore, Chennai.

... Petitioner

/Vs./

1. The Revenue Divisional Officer,
RDO Office,
Ramanathapuram.

2. The Tahsildar,
Taluk Office,
Rameswaram.

3. Kalimuthu
4. Muthu
5. Kumar

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to
issue a Writ of Mandamus restraining the respondents 1 and 2 from
transferring the patta/issuing patta from the name of the petitioner to the



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name of the respondents 3 and 4 pending the adjudication of the petitioner's petition presented during November 2023 before the District Munsif Court, Rameswaram.

For Petitioner	: Mr.A.Sivaji
For R1 & R2	: Mr.A.Kannan Additional Government Pleader
For R5	: Mr.S.Vellaisamy

ORDER

This writ petition is filed for issuance of writ of mandamus restraining the respondents 1 and 2 from transferring the patta/issuing patta from the name of the petitioner to the name of the respondents 3 and 4 pending the adjudication of the petitioner's petition presented during November 2023 before the District Munsif Court, Rameswaram.

2. With consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

3. The petitioner is a registered company under the Companies Act. The petitioner company purchased the properties in S.No.472 and other survey numbers at Rameshwaram Taluk. Patta was also issued in its name



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in Patta No.797. The petitioner is in peaceful possession and enjoyment of the said properties. While so, the petitioner was issued with notice by the second respondent regarding transfer of patta in the name of the private respondents. On verification, the petitioner was given to understand that a suit in O.S.No.13 of 2001, on the file of the District Munsif, Rameshwaram was filed for partition and in that suit, preliminary decree was passed on 05.04.2002 and final decree was passed on 04.12.2013. According to the petitioner, in the said suit, the owner of the petitioner company was wrongly described to avoid service of notice to the petitioner company. The petitioner states that the private respondents fraudulently obtained final decree and took steps to mutate patta in their names by submitting representation to the second respondent. The second respondent, on the basis of the representation of the private respondents, issued notice on 26.09.2023, to the petitioner company. The petitioner immediately thereafter filed a petition in November 2023 before the District Munsif, Rameshwaram to set aside the exparte order. The said petition was not taken on file by the District Munsif, Rameshwaram. Meanwhile, the second respondent sent a notice on 13.10.2023, directing the petitioner to appear for enquiry on



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15.11.2023. The petitioner submitted its objection on 13.12.2023 to the transference of patta in favour of the private respondents to the second respondent. In spite of the petitioner's petition, the second respondent submitted his report to the first respondent on 15.12.2023, and in pursuance thereof, the first respondent sent an enquiry notice dated 29.01.2024, calling upon the petitioner to appear for enquiry on 12.02.2024. The petitioner's representative appeared on 12.02.2024, before the first respondent and sought time to file objection before the first respondent. As the respondents did not give opportunity to the petitioner to work out its remedy before the civil court for setting aside the final decree, the petitioner approached this Court for the aforesaid relief.

4. The learned counsel for the petitioner submitted that the dispute as to the title over the subject properties has not attained finality and therefore, the private respondents' application for transfer of patta should not be considered by the official respondents until finality as to title was reached in the civil court.



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5. The learned counsel for the petitioner relying on Rule 4(4) of the Tamilnadu Patta Passbook Rules, submitted that if there was dispute as to ownership of the property, the entries in the revenue records shall not be changed until the title was decided by the civil court. The learned counsel further submitted that the fourth defendant died pending suit and in the absence of the impleadment of the legal heirs of the fourth defendant, the decree obtained against the deceased fourth defendant was null and void. The learned counsel therefore submitted that the writ petition deserved to be allowed.

6. The learned Additional Government Pleader appearing for the respondents 1 and 2 submitted that the first respondent issued notice of enquiry dated 29.01.2024, to the petitioner, calling him for an enquiry on 12.02.2024. The petitioner appeared through his representative before the first respondent and sought time to file objection and considering the petitioner's request, the first respondent posted the matter to 04.03.2024. The petitioner instead of filing objection before the first respondent approached this Court for the aforesaid relief.



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7. The learned Additional Government Pleader further submitted that the petitioner should be directed to appear before the first respondent and file his objections, if any. Even without filing objections, the petitioner cannot seek for a mandamus restraining the respondents from transferring the patta. Moreover, in O.S.No.13 of 2001, preliminary decree was passed as early as on 05.04.2002 and final decree was passed on 04.12.2013 and unless the final decree was set aside, the petitioner cannot restrain the official respondents from exercising their statutory duties.

8. The learned counsel for the fifth respondent submits that the fifth respondent submitted an application under the Right to Information Act and was informed that the application filed by the petitioner to set aside the exparte order was returned and the same was not re-presented thereafter. The learned counsel for the fifth respondent therefore submitted that this writ petition deserved to be dismissed as meritless.

9. I have given my anxious consideration to the submissions made on behalf of all the parties and carefully perused the materials available



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10. It is undisputed that the civil court had passed preliminary decree in the suit for partition in O.S.No.13 of 2001 on 05.04.2002 and passed final decree on 04.12.2013. Based on the civil court's decree, the private respondents filed an application before the respondents for issuance of patta in their favour. In the said proceedings, notice of enquiry was sent to the petitioner by the second respondent, the petitioner also filed objections before the second respondent. The second respondent thereafter sent a report to the first respondent on 15.03.2023 recommending transfer of patta in favour of the private respondents. The first respondent sent notice of enquiry on 29.01.2024 to the petitioner to appear for enquiry on 12.02.2024. The petitioner appeared through his representative and sought time to file an objection. The first respondent posted the matter on 12.03.2024. In the meanwhile, the petitioner filed the above writ petition for the aforesaid relief. The petitioner claims that he has filed an application to set aside the exparte decree in November 2023, and till its disposal the first respondent cannot transfer patta as per Rule 4(4) of the Patta Passbook Rules. It is seen from the information obtained from the private respondents under the Right to Information Act



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that the application to set aside the exparte decree filed by the petitioner was returned. Thereafter, the same was not re-presented. Therefore, as on date, no application is pending before the District Munsif Court, Rameshwaram. Rule 4(4) of the Tamilnadu Patta Passbook Act, 1983, provides that while a dispute regarding ownership was pending before the civil court, no changes in the entries already recorded in the revenue records could be made till the judgment regarding ownership was passed by the competent civil court. In the present case, the competent court has already passed an exparte decree in the partition suit as early as on 05.04.2002, in pursuance thereof final decree application in I.A.No.78 of 2012 was filed and final decree was passed on 04.12.2013. The application to set aside the exparte decree in the suit was filed by the petitioner two decades thereafter, in November 2023. As per the information obtained by the private respondents under the Right to Information Act, even the said application was returned and not re-presented thereafter. Therefore, as on date there is no challenge to the exparte decree. Hence, in my view, mandamus sought for cannot be entertained. The petitioner company is at liberty to submit its objections to the first respondent in the enquiry pending before the first respondent.



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If the petitioner company submits its objections, the first respondent shall consider the same on merits and in accordance with law and thereafter pass orders. It is made clear that if the petitioner ultimately succeeds in setting aside the exparte decree, it is always open to him to approach the authorities for transfer of patta.

11. Accordingly, this writ petition is disposed of. No costs.
Consequently, connected miscellaneous petition is closed.

21.01.2025

Index : Yes / No
NCC : Yes / No
CM

To,
1. The Revenue Divisional Officer,
RDO Office,
Ramanathapuram.

2. The Tahsildar,
Taluk Office,
Rameswaram.



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N.MALA, J.

CM

Order made in
W.P.(MD)No.10069 of 2024
and WMP(MD).No.11827 of 2024

Dated:
21.01.2025