BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserving the Judgment	Date of Pronouncing the Judgment
08.01.2025	31.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN
and
THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

W.A.(MD) No.739 of 2021
and
C.M.P.(MD) Nos.3285 & 10784 of 2021

Rajeshwari Home Developers India (P) Ltd.,
Annur
through its Director Rajeswari
D.No.73, Avinashi Road
Annur Town, Avinashi Taluk
Coimbatore District ... Appellant

-vs-

1.The Additional District Collector
Thoothukudi District
Thoothukudi

2.The Tahsildar
Kovilpatti Taluk
Thoothukudi District

3.N.Srinivasan ... Respondents

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 19.01.2021, passed in W.P.(MD) No.677 of 2021, on the file of this Court.

For Appellant	:	Mr.S.Meenakshi Sundaram, Senior Counsel assisted by Mr.V.Karthikeyan
For Respondents	:	Ms.D.Farjana Ghoushia Special Government Pleader for R1 & R2 Mr.Ajmal Khan, Senior Counsel for M/s.Ajmal Associates for R3

J U D G M E N T

RMT.TEEKAA RAMAN, J.

The unsuccessful writ petitioner is the appellant herein.

2. For the sake of convenience, the parties are referred to as per the ranking in the writ petition.

3. The brief facts leading to the filing of this writ appeal are as under:

3(a) This is a second round of litigation.

3(b) Initially, the third respondent filed an application before the Revenue Divisional Officer, Kovilpatti, for correction of entries in the UDR Scheme for the reason that the property to an extent of 1 Acre of the land in Survey Nos.280/6C and 281/3B has been purchased by his father, however, in the patta, a lesser extent, namely, 54 cents alone, has been entered in favour of his father.

3(c). Based on the said application, the Tahsildar, Kovilpatti Taluk, issued a notice of hearing to the vendor of the appellant, namely, Rajeswari Home Developers India (Private) Limited. Thereafter, the District Revenue Officer, Thoothukudi District, passed an order dated 18.10.2013 in favour of the third respondent.

3(d). Challenging the said order, the appellant filed the writ petition in W.P.(MD) No.18538 of 2013 before this Court and by order dated 05.09.2014, this Court dismissed the said writ petition. Aggrieved by the order of dismissal, the appellant filed an appeal in W.A.(MD) No.1300 of 2014, wherein the Division Bench of this Court, by Judgment dated 07.01.2019, allowed the writ appeal, set aside the order dated 05.09.2014 passed by the learned Single Judge in W.P.(MD) No.18538 of 2013, and remitted the matter to the District Revenue Officer, Thoothukudi District, for fresh hearing and for passing orders, after giving sufficient opportunities to the appellant as well as the third respondent.

3(e). The relevant portion of the said Judgment is extracted hereunder:

> *"1. The order of the learned Single Judge in W.P.(MD)No. 18538 of 2013, dated 05.09.2014, is set aside. No costs.*
>
> *2. The impugned order in writ petition in Na.Ka.No.D2/35057/2013, dated 18.10.2013, passed by the first respondent is quashed and the matter is remitted to the first respondent for fresh hearing and the first respondent shall pass an order after affording sufficient opportunity to both appellant as well as the third respondent and consider their case on merits. It is open to the appellant as well as the third respondent to raise all their objections and submit their documents before the first respondent. The first respondent shall pass an order in accordance with law and uninfluenced by any of the findings of this Court and the order passed by the first respondent will subject to the outcome of O.S.No.271 of 2013, on the file of the Principal District Munsif, Kovilpatti. The Civil Court can independently decided the question of title.*

While rendering the judgment, we are not holding that the revenue authorities are not competent to decide the question of title based on admitted facts for effecting mutation of records. We are only holding that the revenue authorities are not competent to mutate the revenue records contrary to the provisions of Tamil Nadu Patta Bass Book Act, 1983. Similarly, when a question is raised about the fraudulent nature of transaction and if it is established by documents, which are not disputed, the revenue authorities are competent to correct the entries and restore the revenue records to its original stage, if they are convinced that change or mutation of revenue records was by playing fraud. Similarly correction of entries wrongly made during UDR is also permissible. However, in all instances, when correction of entries is called for, it shall be done only after hearing the person interested. Consequently, connected miscellaneous petition is closed."

3(f). Subsequently, it appears that the third respondent filed a review application in Rev.Aplc(MD) No.100 of 2019 seeking to review the above Judgment dated 07.01.2019 passed in W.A.(MD) No.1300 of 2014 alleging that on the ground of violation of the principles of natural justice on the part of the authority concerned, the above writ appeal was allowed. However, he submitted that the death certificate of Krishna Konar, from whom the third respondent's father purchased the land, produced by the appellant was issued by a person, who is not competent and therefore, the third respondent produced the death certificate of the said Krishna Konar, showing that he died on 14.12.1978 and therefore the appellant herein has not come to the Court with clean hands and accordingly, sought for review of the Judgment dated 07.01.2019.

3(g). This Court, by order dated 08.09.2020, dismissed the said review application by observing that since a civil suit is pending, the parties can agitate their rights before the Civil Court and the writ appeal was allowed solely on the ground that the order impugned in the writ petition was issued in violation of the principles of natural justice and accordingly, permitted the third respondent to raise all the facts before the District Revenue Officer, Thoothukudi District.

3(h). Pursuant to the Judgment, 07.01.2019, passed in W.A.(MD) No.1300 of 2014, which has been confirmed by order dated 08.09.2020, passed in Rev.Aplc(MD) No.100 of 2019, passed by the Division Bench of this Court, the first respondent passed an order dated 23.11.2020.

3(i). Aggrieved against the said order, the appellant filed the writ petition in W.P.(MD) No.677 of 2021 alleging that the extent of land, which conveys ownership to him, was varying at the instance of some third parties and accordingly, he filed a suit in O.S.No.271 of 2013, before the District Munsif Court, Kovilpatti, for permanent injunction against the third respondent from interfering with his peaceful possession and enjoyment of the property.

3(j). From the typed set of papers, it is found that the third respondent, who initially made a representation to the Revenue Divisional Officer, Kovilpatti, alleging shortage of extent of land being noted in the patta, in the written statement filed by him in O.S.No.271 of 2013, has made a counter claim seeking declaration of title, mandatory injunction, recovery of possession and other consequential reliefs.

3(k). It is represented by the learned counsel on either side that the said suit is still pending.

3(l). It remains to be stated that the first round of litigation filed by the very same writ petitioner was initially allowed on appeal and the matter was remitted back District Revenue Officer, Thoothukudi District, for fresh hearing and for passing orders, after giving sufficient opportunities to the parties, as extracted supra.

3(m). The sum and substance of the submissions of the learned Senior Counsel appearing for the writ petitioner is that it is not for the first respondent to take a decision in the matter when a civil suit is pending.

4. Heard the learned Special Government Pleader appearing for the respondents 1 and 2 and the learned Senior Counsel appearing for the third respondent and perused the materials available on record.

5. We have given our anxious consideration to the rival submissions of the learned counsels on either side.

6. Admittedly, the order impugned in the writ petition is the outcome of the Judgment passed in the writ appeal by this Court. Now, again the writ petitioner is alleging that the revenue authorities should not pass such an order. When the Division Bench of this Court has given a direction to the authority concerned at the instance of the very same writ petitioner, the order in the impugned order came to be passed.

7. It remains to be stated that even this Court has allowed the writ appeal i.e., W.A.(MD) No.1300 of 2014 with certain observations, which have been extracted supra. Hence, we do not find any positive material to interfere with the order passed by the learned Single Judge in the writ petition and this writ appeal is, therefore, liable to be dismissed.

8. In the result, this writ appeal is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

[T.K.R., J.] **[N.S., J.]**

31.01.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To:
1.The Additional District Collector,
Thoothukudi District,
Thoothukudi.

2.The Tahsildar,
Kovilpatti Taluk,
Thoothukudi District.

RMT.TEEKAA RAMAN, J.
AND
N.SENTHILKUMAR, J.

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JUDGMENT
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