



W.P.(MD)No.7634 of 2021

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : **02.04.2025**

Delivered on : **15.04.2025**

CORAM:

THE HONOURABLE MR JUSTICE P.B. BALAJI

W.P.(MD)No.7634 of 2021
and
W.M.P.(MD)No.5802 of 2021

1. Maruthambal
2. Prabakaran,
3. Ilango,
4. Sivakumar, ... Petitioners
/Vs./

1. The District Revenue Officer
Karur District, Karur.
2. The Sub Collector,
Kulithalai, Karur District.
3. The Tahsildar,
Kadavur Taluk, Karur District.
4. K.M.Manickam,
5. Sountharajan, ... Respondents



W.P.(MD)No.7634 of 2021

WEB COPY

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorari, calling for the records relating to the impugned order in Na.Ka.No.E3/2016/2014, dated 10.02.2021, passed by the 1st respondent and quash the same as illegal.

For Petitioner : Mr.A.N.Ramanathan

For Respondents : Mr.S.Kameswaran

Government Advocate for R1-3

: Mr.M.P.Senthil for R5

: No appearance for R4

ORDER

The petitioner challenges the order of the first respondent dated 10.02.2021.

2. I have heard Mr.A.N.Ramanathan, learned counsel for the petitioner, Mr.S.Kameswaran, learned Government Advocate, for the respondents 1 to 3 and Mr.M.P.Senthil, learned counsel for the respondents 3 and 4. I have also gone through the records, including the impugned order.



W.P.(MD)No.7634 of 2021

WEB COPY

3. The case of the petitioners is that the lands comprised in S.F.No.384/1 to an extent of 36 cents, Keelapaguthi Village, Kadavur Taluk, Karur District, belonged to one Varatha Reddiyar and his wife Veerammal, who have purchased the total extent of 8.57 Acres from one Jamindhar K.K.Muthaiah, by way of registered sale deed dated 16.08.1960. The said Varatha Reddiyar and his wife Veerammal, sold 2.48 Acres to one Mohamed Hanifa by way of registered sale deed dated 31.12.1960, who in turn sold the said lands to one A.Periyasamy, S/o.Andiyappa Pandithar in any by registered sale deed dated 30.01.1961. The said A.Periyasamy mutated UDR patta and other revenue records in his name. The petitioner's father's whose name, is also Periyasamy, S/o.Thirumudiyapillai, purchased 36 cents in S.F.No. 384/1 from A.Periyasamy vide sale deed dated 19.06.2003 and subsequently patta was also mutated in the name of T.Periyasamy. He executed a registered settlement deed dated 22.03.2013 in favour of the petitioners and patta was also mutated in favour of the petitioners in patta No.1924.



W.P.(MD)No.7634 of 2021

WEB COPY

4. It is the further case of the petitioners that there was a family partition registered in document No.1478/2018 in and by which the subject property was allotted to the share of the petitioner's father, viz., T.Periyasamy and patta was again mutated in his name. While so, the fourth respondent claimed right over S.F.No.384/1 as if it belonged to Manickam Pillai and others and that they had executed sale deed on 13.11.1978 to one A.Valusamy and A.Natesan, who in turn, by registered sale deed dated 05.02.2013 sold it in favour of the fourth respondent. The fourth respondent subsequently sold the said property to the fifth respondent on 15.02.2013. On purchase, the fifth respondent has approached the first respondent to delete the name of A.Periyasamy in the UDR patta, which was issued in the year 1984 and subsequently revenue patta standing in the name of T.Periyasamy. The vendor of the fourth respondent, viz., A.Velusamy and A.Natesan, have filed a civil suit in O.S.No.482 of 2004 for declaration that they are the owners of the property and for consequential injunction against the revenue officials not to enter the petitioners' father, viz., T.Periyasamy in the revenue



W.P.(MD)No.7634 of 2021

WEB COPY

record. The said suit was contested, however subsequently, on 31.10.2014, the suit was dismissed for default. According to the petitioners, no steps were taken to restore the said suit and in the meanwhile, the plaintiff had died and the second defendant had also died and therefore, the decree for dismissal attained finality.

5. It is the further case of the petitioners that even pending the suit, the fourth respondent approached the first respondent and sought for change in UDR patta. However, despite bringing it to the notice of the first respondent that the suit filed by the fourth respondent for declaration had been dismissed in and by the impugned order, the first respondent had deleted the name of A.Periyasamy and entered the name of the fifth respondent and this order is under challenge in the present writ petition.

6. The learned counsel for the petitioners would submit that when the fourth respondent, pending the suit for declaration of title had conveyed the property to fifth respondent and subsequently the suit came to be dismissed, the fourth respondent's title itself became questionable and unfortunately, the first respondent has failed to examine the effect of



W.P.(MD)No.7634 of 2021

WEB COPY

the dismissal of O.S.No.482 of 2004, while erroneously directing deletion of name of A.Periyasamy in 'A' Register, which was intact from 1984 onwards. He would further submit that the respondents 4 and 5 have also not been able to produce any document to establish their possession over the subject property and on the contrary, he would submit that when the revenue records were mutated in the name of the father of the writ petitioner and chitta and adangal also stood in his name, the first respondent ought to have rejected the request of the fourth respondent.

7. Per contra, the learned counsel appearing for the fifth respondent, Mr.M.P.Senthil, would submit that the settlement register even in the year 1964 stood in the name of Manickam and two others from whom property was duly purchased under sale deed dated 05.02.2013 by the fourth respondent and therefore, there is no illegality in the purchase made by the fourth respondent and the subsequent transfer effected even the property to the fifth respondent. He would also invite my attention to the patta in favour of the said Velusamy and Natesan vide patta No.500 and therefore, the learned counsel would



W.P.(MD)No.7634 of 2021

WEB COPY

submit that the names of the respondents predecessors-in-title were alone mutated in the revenue records and therefore, there is no infirmity in the order passed by the first respondent. Insofar the dismissal of the suit for default, Mr.M.P.Senthil, learned counsel for the fifth respondent stated that the fifth respondent has instituted a fresh suit in O.S.No.43 of 2025 on the file of the District Munsif Court, Kuzhithurai. He would also furnish a copy of the plaint filed by the fifth respondent. He would therefore submit that the respondents 4 and 5 were not parties to the suit in O.S.No.482 of 2004, which is initiated only by Velusamy and Natesan and therefore the dismissal of decree would not bind the respondents 4 and 5. The learned counsel would therefore pray for dismissal of the writ petition.

8. Mr.S.Kameswaran, learned Government Advocate, would submit that after detailed enquiry, the first respondent passed the impugned order and the said order was passed after perusing available records and there is no illegality committed by the first respondent. He would also seek for dismissal of the writ petition.



W.P.(MD)No.7634 of 2021

WEB COPY

9. I have carefully considered the submissions advanced by the learned counsel on either side.

10. Admittedly, the patta was issued in the name of A.Periyasamy and the petitioner claims right to lands measuring 36 cents in S.F.No. 384/1 under sale deed executed by Jamindhar K.K.Muthaiah in favour of Varatha Reddiyar and his wife Veerammal, vide registered sale deed dated 16.08.1960. The said Varatha Reddiyar and his wife Veerammal, sold 2.48 Acres to one Mohamed Hanifa by way of registered sale deed dated 31.12.1960, who in turn sold the said lands to one A.Periyasamy. The revenue records including patta were also mutated in the name of A.Periyasamy, under whom the petitioners claim title. In fact, subsequent to the purchase of the property by the petitioners, patta was also mutated in their names and pursuant to the settlement deed, it was mutated in the name of the petitioner and after partition in the family, the patta was again mutated in the petitioners father, T.Periyasamy's name. No doubt, the fourth respondent claims right independently under Manickam Pillai and two others, who are claimed to have sold the property on 13.11.1978 to Velusamy and Natesan. The said Velusamy and



W.P.(MD)No.7634 of 2021

WEB COPY

Natesan, in turn had conveyed the property to the fourth respondent, the vendors of the fourth respondent, viz., A.Velusamy and A.Natesan, who in fact filed a suit seeking a relief of declaration that they are the owners of the property and for consequential relief of permanent injunction restraining the defendants 4 to 6, viz., revenue authorities, not to enter the petitioners' father's name in the revenue records. The said suit was admittedly dismissed for non prosecution and no steps were taken by the vendors of the fourth respondent to restore the suit. Pending the suit, the fourth respondent could have impleaded himself in the said suit, taken steps to have restored the suit. However, that has not been done and admittedly now the fifth respondent as informed by Mr.M.P.Senthil to this Court, has filed a fresh suit in O.S.No.43 of 2025, which is pending before the District Munsif Court, Kuzhithurai, even in the said suit, the fifth respondent seeks for declaration of title to the suit property and for consequential relief of permanent injunction.

11. In such view of the matter, the fifth respondent herself is not certain about her title to the property and in view of the rival claims and has approached the competent civil Court to declare her right.



W.P.(MD)No.7634 of 2021

WEB COPY

Admittedly, the suit of the vendors of the fourth respondent, also for declaration of title, had been dismissed and their flow of title is only from the year 1978 onwards. However, the claim of the petitioners relate to an earlier registered document in the year 1960 itself. Further, I find from the UDR register dated 16.05.1978 that the subject survey No.384/1 was mutate only in the name of A.Periyasamy, under patta No.500. Therefore, it is not known how subsequently said patta No.500 has been mutated in the name of the vendors of the fourth respondent.

12. Be that as it may, admittedly the fifth respondent has approached the competent civil Court to declare his right and title in the subject property and therefore unless he is able to assert his right, the revenue authorities ought not to have removed the names of the petitioners, especially, when it is brought to their notice that the suit filed by the vendors of the fourth respondent for declaration of title had also been dismissed.

13. In view of the above, I have constrained to interfere with the order of the of the first respondent. In fine, this Writ Petition is allowed

10/12



W.P.(MD)No.7634 of 2021

WEB COPY

and the impugned order passed by the first respondent dated 10.02.2021 is hereby set aside. However, it is made clear that in the event of the fifth respondent succeeding in O.S.No.43 of 2025, he shall be entitled to seek mutation of revenue records, subject to the decision of the civil Court. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No
NCC : Yes / No
LS

15.04.2025

TO:-

1. The District Revenue Officer
Karur District,
Karur.
2. The Sub Collector,
Kulithalai,
Karur District.
3. The Tahsildar,
Kadavur Taluk,
Karur District.



WEB COPY



W.P.(MD)No.7634 of 2021

P.B. BALAJI, J.

LS

Order made in
W.P.(MD)No.7634 of 2021

Dated:
15.04.2025