BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.04.2025

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU
and
THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.A(MD)No.841 of 2025
and
C.M.P(MD)No.5562 of 2025

1.Balagurusamy
2.Veluthai ... Appellants/Respondents 14 & 21

Vs.

P.Thangiah (Died)

1.Subbulakshmi
2.Rajaperumal
3.Mathanraj
4.Sathanraj ... Respondents 1 to 4/Writ Petitioners

5.The Revenue Divisional Officer,
Periyakulam Revenue Division,
Theni District.

6.The Thasildar,
Theni Taluk,
Theni District.

7.S.Ramachandran
8.S.Nagarajan

9.R.Vijayarajan
10.R.Ramar
11.Dhanalakshmi
12.Ganeswari
13.Suriyalakshmi
14.Gokilavani
15.Subasri
16.Kathirvelpandiyan
17.Jeyalakhmi
18.Karthison
19.Lingakani
20.Kasirajan
21.Gunasekaran
22.Vijayakumar
23.Pounraj ... Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent against the order dated 07.11.2024 made in W.P.(MD)No.22677 of 2019 on the file of this Court.

For Appellants	: Mr.A.K.Manikkam
For RR 1, 2, 11 to 17, 19, 20 & 22	: Mr.F.X.Eugene
For RR 5 & 6	: M/s.D.Farjana Ghousia Special Government Pleader
For RR 7 & 8	: Mr.B.Saravanan Senior Counsel for Mr.K.Vignesh

JUDGMENT

(Judgment of the Court was delivered by **S.SRIMATHY, J.**)

The present writ appeal is filed by the respondents 14 & 21 against the order, dated 07.11.2024, passed in W.P.(MD)No.22677 of 2019.

2. The writ petition was filed by one Thangaiah, challenging the order, dated 21.09.2019, passed by the Revenue Divisional Officer, the 1^{st} respondent in the writ petition.

3. Pending writ petition, the writ petitioner Thangaiah died and his legal heirs were impleaded as parties in the writ petition.

4. The brief facts of the case are that the deceased Thangaiah has purchased an extent of 1.08 acres from the private respondents 9 to 17 herein on 17.08.2017, through a Registered Sale Deed in Document No.4592/2017. The said private respondents 9 to 17 herein claim themselves to be the descendants of Kandamanur Jameen had filed S.O.P.No.2 of 2013, on the file of Sub Court,

Theni and the same came to be ordered on 02.04.2014. Based on the same, the 9th respondent approached the Tahsildar for issuance of joint patta in the name of the private respondents 9 to 17. The Tahsildar, vide order, dated 14.01.2015, had granted joint patta, by relying on the judgment passed in S.O.P.No.2 of 2013. Aggrieved over the same, the private respondents 7 and 8 herein, namely, S.Ramachandran and S.Nagarajan had filed an appeal before Revenue Divisional Officer and the appeal was allowed, vide the order impugned in the writ petition, dated 21.09.2019. Hence in effect, the patta granted to the respondents 9 to 17 was cancelled. However, during the interregnum period, the private respondents 9 to 17 sold a portion of the land to the deceased writ petitioner. Hence, the writ petition was filed.

5. After considering the rival submissions, the Writ Court has held that the parties have raised several disputed questions of facts and therefore, it is appropriate to relegate the parties to approach the Civil Court.

6.According to the appellants/respondents 14 & 21, the first appellant along with one Narayanamoorthy, Selvaraj, Ramasamy and Ramakrishnan purchased the property to an extent of 68 cents situated in S.No.1405/3A1 vide Document No.1897/2016, dated 24.02.2016 from one Vijayarajan and 8 others (legal heirs of Gandamanayakkanur Zameen) which was subsequently subdivided as S.No.1405/3A1B in Joint Patta No.7129. The second appellant purchased 31 cents from Kasirajan, Gunasekaran, Kartheesan and Pounraj in S.No.1405/3A1 vide Document No.2188/2016 dated 29.03.2016 now subdivided as S.No. 1405/3A1A1A vide joint patta No.4179. The properties purchased by the appellants are situated in S.No.1405/3A1, whereas the properties of the respondents 7 and 8 are situated in S.No.1405/3A2A. The properties in S.No. 1405/3A1 are the properties of Gandamanayakkanur Zameen and neither acquisition nor sale was done in respect of the said properties and one can conclude the same from the revenue and registration office records. The respondents 7 and 8 are claiming rights over the property by their alleged purchase from one Narayana Iyer, who has no title at all and his title was not derived by the respondents 7 and 8. Therefore, the respondents 7 and 8 have no locus standi to challenge the patta transfer order dated 14.01.2015. The respondents 7 and 8 claim right only over 92 cents of land in S.No.1405/3A out of the total extent of 6.16 acres as they purchased the same from the legal heirs of one Narayana Iyer through two registered sale deeds dated 04.12.1967. They have no rights in the remaining property and hence, the impugned order in the writ petition cancelling the patta transfer order for the entire extent is unsustainable. After purchase, the appellants properties ie., 99 cents are subdivided into S.No. 1405/3A1B and S.No.1405/3A1A1A respectively and hence, the properties of the appellants and the respondents 7 and 8 are totally different.

7. On the other hand, the Learned Senior Counsel appearing for respondents 7 and 8 vehemently objected and submitted that the patta was obtained from the Tahsildar fraudulently, hence the Writ Court after considering the same had refused to set aside the order passed by the Revenue Divisional Officer. Further, the respondents submitted that the Succession O.P., can be filed only for transferring money, shares, liquidity or movables. The schedule of properties stated in the succession O.P., also would clearly reveal that the SOP was filed only for movables. Further, he relied on the contents of the petition filed in SOP filed by the respondents 9 to 17, wherein it is stated as under:

> *"...Subsequent to the death of Sundaravadivel, Vijayaraghavan had become the Zamin.* ***Most of the properties were taken over by the Government as per the Zamin Abolition Act, the remaining properties were sold.*** *The petitioners (respondents 5 to 13 herein) alone are the existing legal heirs of Kandamanoor Zamin".*

Hence the Learned Senior Counsel appearing for respondents 7 and 8 submitted when the respondents 9 to 17 had admitted there is no immovable properties are available, in such circumstances, claiming patta by the respondents 9 to 17 as if some property is available is a fraudulent act. If it is fraud, then question of limitation would not arise.

8. After hearing the rival submissions, especially, the contention of fraudulent act, this Court is not inclined to entertain the writ appeal. However, the aggrieved party is at liberty to approach the Civil Court for appropriate relief and interim reliefs. The suit may be filed within a period of four weeks from the date of receipt of the copy of the order and until then the parties shall not encumber the property.

9. With the above said directions, the Writ Appeal is disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

[J.N.B.,J.] & [S.S.Y.,J.]
03.04.2025

NCC : Yes / No
Index : Yes / No
ps

To

1.The Revenue Divisional Officer,
Periyakulam Revenue Division,
Theni District.

2.The Thasildar,
Theni Taluk,
Theni District.

J.NISHA BANU, J.
and
S.SRIMATHY, J.

ps

ORDER MADE IN
W.A(MD)No.841 of 2025

DATED : 03.04.2025