BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.06.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.A(MD)No.1177 of 2025
and
C.M.P(MD)No.7342 of 2025

Thangaraj @ Santhanakrishnan ... Appellant / 4th Respondent

Vs.

Sudhanthiram (Died)

1.Selvamani ... 1st Respondent / Petitioner

2.The District Revenue Officer,
Dindigul District,
Dindigul.

3.The Sub Collector,
Palani,
Dindigul District.

4.The Revenue Divisional Officer,
Palani Division,
Palani,
Dindigul District. ... Respondents 2 to 4 / Respondents 1 to 3

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order in W.P(MD)No.23890 of 2016 dated 03.03.2025 and thereby allow this Writ Appeal.

For Appellant : Mr.G.Gomathisankar

For Respondents : Mr.Sricharan Rangarajan
Senior Counsel
for Mr.D.Venkatesh for R.1

Mr.N.Satheesh Kumar
Additional Government Pleader
for R.2 to R.4

JUDGMENT

(Judgment of the Court was made by G.R.Swaminathan J.)

Heard both sides.

2.The writ petitioner challenged the order dated 09.11.2016 passed by the Sub Collector, Palani whereby a pathway was earmarked in the writ petitioner's land. Challenging the same, W.P(MD)No.23890 of 2016 came to be filed. The learned single Judge allowed the writ petition on 03.03.2025 in the following terms:

"15. In the counter affidavit filed by the third respondent, strangely, contentions are raised that the subject property in Survey No.626/4B was donated to the Government. I have already discussed the averments in the settlement deed and found that Survey No.626/4B was never gifted in the first

place. It is further contended that the property donated in Survey No.626/4B was subdivided as Survey Nos.626/4B and 626/4C and the subdivided survey No.626/4B has been earmarked as "detail pathway" for use of general public to reach the Taluk office. The said contention cannot be countenanced for the simple reason that as I have already indicated even at the time of gift deed, survey No.626/4C was subdivided and an extent of 1.10 Acres had been gifted, no portion of Survey No. 626/4B was gifted under the said settlement deed dated 15.09.1998. Therefore, to contend that the property in Survey No.626/4B was subdivided into Survey No.626/4B and 626/4C is wholly unsustainable and cannot be given any credence whatsoever. Insofar as the contentions of the fourth respondent that the adjacent land owner had executed a settlement deed in respect of patta property only to connect the pathway covered under the settlement deed dated 15.09.1998 is concerned, from the said settlement deed relied on by the fourth respondent, viz., 14.02.1996, I find that the said gift deed has been executed by one Palanisamy and his brothers, gifting lands to form a pathway to reach the Taluk office from Dindigul - Palani Main Road. The said lands gifted are comprised in Survey Nos.613/1, 610/5 and 612. It is seen from the village map, which is also enclosed in the typed set filed by the fourth respondent that the lands in Survey Nos. 613, 612 would directly connect Dindigul - Palani Main Road to the taluk office. The contention of the fourth respondent that *only if survey No.626/4B is also made available the pathway would exist to reach the Taluk office is therefore clearly unacceptable and contrary to record.*

16. Even other wise, when the case on which the fourth respondent has sought to challenge the patta issued to the petitioner and the case of the official respondents is only revolving around the gift deed dated 15.09.1998 executed by the petitioner's family, and when there is absolutely no reference to Survey No.626/4B, in the said settlement deed, the entire case set up by the official respondents is false. That apart the petitioner has also filed the revenue records to show that the mutation has always been in the name of the first petitioner, Sudhanthiram, in respect of Survey No.626/4 and only subsequent to the impugned proceedings, the name of the first petitioner, Sudhanthiram has been removed and the description is shown as pathway.

17. Even in the impugned order of the second respondent having observed that the lands in Survey No. 626/4B was neither gifted nor acquired for the purposes of pathway to reach the taluk office in the manner known to law, the second respondent ought not to have held that the classification of survey No.626/4B as pathway was not wrong or improper.

18. With regard to existence of an alternate remedy to be availed under the statute and the writ petition not being maintainable. No doubt, there is an alternate remedy by way of *revision under Section 13 of the Tamil Nadu Patta Passbook Act, as contended by the fourth respondent. However, when this court has entertained the writ petition and the writ petition has been pending before this Court for the past eight years and more and only now taken up for final disposal, the petitioner cannot be relegated to avail the alternate statutory remedy of revision. All the contentions of the parties had been placed before this court and the same has also been considered on merits and therefore, no prejudice would be caused to any of the parties, if the issue is decided in the present writ petition instead of driving the petitioner to file a revision under Section 13 of the Tamil Nadu Patta Pass Book Act at this length of time.*

19. For all the above reasons, I am inclined to interfere with the impugned order and in fine the impugned order passed by the second respondent is set aside. However, it is open to the fourth respondent to file a civil suit to establish the existence of a pathway in Survey No. 626/4B and long usage of the same by the general public and seek appropriate relief before the civil court of competent jurisdiction, in accordance with law."

Challenging the same, the fourth respondent has filed this Writ Appeal.

3.On the last occasion, we called upon the learned Additional Government Pleader to clarify if in the revenue records, at any point of time, the petition mentioned pathway was ever shown. After a thorough verification of the revenue records, the learned Additional Government Pleader today submitted that neither before UDR nor during UDR nor in the FMB, the petition mentioned pathway was ever reflected. He submitted that only pursuant to the order of the Sub Collector, Palani changes were made in the revenue records.

4.We are therefore satisfied that the order impugned in the writ petition could not have been passed and that it was rightly set aside. As and when the appellant herein files any suit, it shall be numbered immediately and the learned trial Judge will endeavour to dispose it as expeditiously as possible. We make it clear that the trial Court shall dispose of the suit based on the evidence adduced before it and it shall not be in any way influenced by the outcome of the writ proceedings.

5.This Writ Appeal is disposed of accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

[G.R.S., J.] **[K.R.S., J.]**
19.06.2025

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

To

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Dindigul District,
Dindigul.

2.The Sub Collector,
Palani,
Dindigul District.

3.The Revenue Divisional Officer,
Palani Division,
Palani,
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G.R.SWAMINATHAN, J

and

K.RAJASEKAR, J.

MGA

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