



W.P.(MD) No.15341 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 25.07.2025

PRONOUNCED ON : 26.08.2025

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P.(MD) No.15341 of 2025
and W.M.P.(MD) Nos.11590, 11592 and 12655 of 2025

Pon Eswara Moorthy

... Petitioner

Vs

1. The District Collector,
O/o. District Collector,
Sivagangai District.
2. The Revenue Divisional Officer,
Sivagangai, Sivangai District.
3. The Tahsildar,
Thirupuvanam Taluk,
Sivagangai District.
4. Dr.Kamatchi Alias Kameswaran
5. Seetha Lakshmi
6. Thilagar
7. Punithakumar

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the



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records pertaining to the impugned order passed by the 2nd respondent in Na.Ka.A3/7825/2024 dated 12.05.2025, and quash the same and consequently direct the respondents 1 to 3 to restore the Patta No.1640 issued in favour of the Petitioner.

For Petitioner	: Mr.V.Meenakshisundaram for Mr.K.Navaneetharaja
For Respondents	: Mrs.S.Jeya Priya, Govt. Advocate for R1 to R3 Mr.G.Prabhu Rajadurai for R5 No Appearance for R4, R6 & R7

ORDER

This Writ Petition is filed challenging the order passed by the second respondent allowing the application filed by the respondents 5 to 7 seeking cancellation of patta transfer order issued in favour of 4th respondent herein dated 02.08.2024 and subsequent patta transfer order dated 28.08.2024 and 04.09.2024, in favour of the petitioner.

2. It is the case of the petitioner that the land in S.No.42/2 in Kothankulam Village, Thirupuvanam Taluk, Sivagangai District, with an extent of 4 acres 50 cents originally belonged to one Rajammal and the same was allotted to her in a final decree dated 19.09.1951 passed in



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O.S.No.11 of 1947 on the file of Sub Court, Sivagangai. The petitioner claims that the said Rajammal adopted 4th respondent herein as her son and she died on 14.12.1986, leaving behind the 4th respondent herein as her sole heir. The revenue records in the name of Rajammal was mutated in favour of 4th respondent by an order passed by Zonal Deputy Tahsildar, Thiruppuvanam, dated 02.08.2024. The petitioner along with two others purchased the subject property from 4th respondent under registered sale deed dated 20.08.2024. Based on the said document patta was again mutated in favour of the petitioner and two other co-purchasers as per the order passed by Zonal Deputy Tahsildar, Thiruppuvanam dated 28.08.2024.

3. It is the further case of the petitioner that the respondents 5 to 7 claiming themselves as relatives of husband of Rajammal made claim over the property and submitted a representation before the second respondent, seeking cancellation of pattas issued in favour of 4th respondent and petitioner. The second respondent, without issuing notice to the petitioner and two other purchasers, conducted an enquiry by issuing notice to 4th respondent alone and passed the impugned order, cancelling the mutation of revenue records in favour of 4th respondent



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and the subsequent order in favour of the petitioner. By the impugned order, the second respondent also directed restoration of patta in the name of original owner Rajammal. Aggrieved by the same, the petitioner has come before this Court.

4. The learned counsel appearing for the petitioner would vehemently contend that though the revenue records were mutated in favour of the petitioner and two other purchasers from the name of the 4th respondent as early as on 28.08.2024, the impugned order was passed by the second respondent without affording any opportunity to the petitioner and other purchasers and hence, there is a violation of natural justice principles. The learned counsel by also taking this Court to the impugned order passed by the second respondent submitted that the 2nd respondent after giving clear finding that respondents 5 to 7 failed to establish their right over the subject property and relegating them to move the civil Court, committed serious error in restoring the patta in the name of original owner, by cancelling the patta issued in the name of petitioner and the 4th respondent. The learned counsel also submitted that though the patta transfer orders in favour of 4th respondent and petitioner were passed on 02.08.2024 and 28.08.2024 respectively, the



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representation submitted by the respondents 5 to 7 were entertained beyond the period of limitation, even without condone delay petition.

5. The learned counsel appearing for the 5th respondent would submit that the petitioner's predecessor in title viz., the 4th respondent claiming himself as an adopted son of original owner Rajammal and the said fact is seriously disputed by the 5th respondent. He submitted that the 5th respondent, who is the daughter of Rajammal's husband's brother in her capacity as a heir of Rajammal, is entitled to the property. Hence, according to him, mutation of revenue records in favour of 4th respondent, when the factum of adoption is disputed, is untenable in law. The learned counsel also submitted that in the impugned order, the second respondent clearly found that the fourth respondent got mutation without proper legal heirship certificate and therefore, the mutation in his favour was not acceptable. The learned counsel also submitted that he has no objection if the impugned order passed by the second respondent as well as the earlier orders passed by the Zonal Deputy Tahsildar, Thiruppuvanam, mutating the revenue records in favour of the petitioner and 4th respondent are set aside and the matter is remitted to the file of original authority under the Tamil Nadu Patta Pass Book Act, 1983 viz., the third respondent to consider the matter afresh.



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6. Heard the arguments of Mr.V.Meenakshi Sundaram, learned counsel representing Mr.K.Navaneetharaja, learned counsel for the petitioner, Mrs.S.Jeya Priya, learned Government Advocate appearing for the respondents 1 to 3 and Mr.G.Prabhu Rajadurai, learned counsel appearing for the fifth respondent. Though notice served on respondents 4, 6 and 7 and their names have been appeared in the cause list, there is no representation on behalf of them.

7. A perusal of the pleadings of respective parties and typed set of papers would establish that the subject property originally belonged to one Rajammal and the same was allotted to her in a final decree passed in O.S.No.11 of 1947. A perusal of the said final decree would establish that there was a partition suit between three brothers viz., Murugesan alias Subramanaia Pillai, Sundaram Pillai @ Raja Pillai (husband of Rajammal) and Muniyandi Pillai @ Pappu Pillai. The first defendant in the suit viz., the husband of Rajammal died pending suit and Rajammal was brought on record as legal representative of Sundaram Pillai @ Raja Pillai. The said property was allotted to Rajammal in the said partition decree. Therefore, it is clear that Rajammal got allotment of property in



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her capacity as legal representative of her husband Sundaram Pillai @ Raja Pillai. Therefore, it is clear that she got the property from her husband's side and the subject property is not the one inherited by her from her father or mother. Therefore, *prima facie* it is clear that under Section 15 of Hindu Succession Act, 1956, the subject property would firstly devolve upon, in the absence of her children, upon the heirs of her husband.

8. It is the claim of the petitioner that 4th respondent is the adopted son of Rajammal. The rival claim of the 5th respondent is that she is the legal heir of Rajammal in her capacity as daughter of one Muniyandi Pillai (brother of Rajammal's husband), who was arrayed as second defendant in O.S.No.11 of 1947. The claim of the petitioner that the fourth respondent is the adopted son of Rajammal is specifically denied in the counter affidavit filed by the 5th respondent. The fourth respondent has not appeared before this Court and presented his case in spite of service of notice. The second respondent in his order recorded a finding that fourth respondent failed to produce the proper legal heir certificate before him. Even in the typed set of papers filed by the petitioner, no legal heir certificate of deceased Rajammal has been produced. No adoption deed has been produced to establish the adoption. Of course,



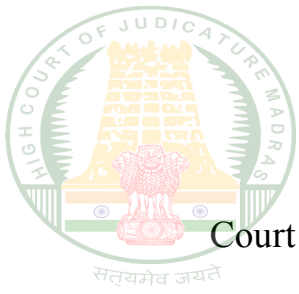
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adoption deed is not the *sine qua non* for valid adoption under Hindu Law. The factum of adoption can be proved by leading other evidence.

In the case on hand, the only document produced by the petitioner, in support of his claim that fourth respondent is the adopted son of Rajammal, is the sale deed executed by Rajammal dated 12.09.1952, wherein she described the fourth respondent as her adopted son.

9. This Court is of the considered view that the revenue officials are not entitled to decide the disputed factum of adoption. The recitals found in the registered sale deed executed by Rajammal may be a piece of evidence in a civil suit. Inference of a fact based on recitals can be done only by the civil Court and not by the revenue officials, especially when there is a serious dispute. The petitioner has not produced any legal heir certificate or adoption deed to prove the factum of adoption before the revenue officials.

10. The impugned order was passed by the second respondent without notice to the petitioner. Hence, there is a clear violation of natural justice principles. Even before passing of impugned order, the mutation of revenue records had taken place and patta was issued in the name of petitioner as early as on 28.08.2024. In normal course, this



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Court would have certainly set aside the order passed by the second respondent on the ground of violation of natural justice and remitted the matter back to the file of second respondent for fresh consideration after giving opportunity to the petitioner. However, in the case on hand, in the light of the contention raised by the petitioner as well as the 5th respondent, there is a serious dispute with regard to the factum of adoption and the entitlement of 4th respondent herein to succeed to the estate of Rajammal. Even if the impugned order is set aside and the matter is remitted back to the file of second respondent, he may not be in a position to give any finding with regard to the validity of adoption pleaded by the petitioner and the entitlement of 4th respondent to succeed to the estate of Rajammal. Likewise, there is a serious dispute with regard to the claim of 5th respondent as a legal heir of said Rajammal. 5th respondent is not a class-I heir of Rajammal. She is claiming herself as a daughter of Rajammal's husband's cousin brother. Whether she is entitled to the estate of Rajammal under Section 15 of Hindu Succession Act, 1956 also has to be decided by the civil Court. It is also to be noted that an order directing mutation of revenue records was passed only on 02.08.2024 just eighteen days prior to purchase of property by the petitioner (ie., under sale deed dated 20.08.2024). Thereafter, the



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mutation had taken place in favour of the petitioner on 28.08.2024.

Taking into consideration turn of events that had taken place immediately preceding purchase of property by the petitioner and also in view of the serious dispute with regard to the title involved in this matter, this Court feels that it is not appropriate to direct the revenue officials to take a call on the rival contention of the petitioner and 5th respondent. By the impugned order, the second respondent directed restoration of patta in the name of original owner Rajammal. In the facts and circumstances of the case, this Court feels that it would be appropriate to keep the revenue records in the name of original owner Rajammal, till the disputes with regard to the adoption of 4th respondent and legal heir claim of 5th respondent are resolved in the civil Court.

11. Therefore, this Writ Petition is disposed of by relegating both the petitioner and the 5th respondent to establish their respective claim before the civil Court and the revenue record is ordered to be maintained in the name of original owner Rajammal, till the dispute is resolved in civil litigation. After culmination of civil litigation, the parties are at liberty to move the revenue authorities seeking mutation of revenue records suitably based on civil Court's finding. It is made clear that any observations made by this Court in this order will not affect the rights of



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either of the parties in the regularly instituted civil proceedings. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

vsm

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Index: Yes/No

Neutral Citation: Yes/No

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