



W.P.(MD)Nos.15196 and 16337 of 2023

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)Nos.15196 and 16337 of 2023

and

W.M.P.(MD)Nos.12788 and 13675 of 2023

W.P.(MD)No.15196 of 2023

1. Edison
2. Henry Varghese
3. Suresh Abraham
4. K.Boothathan
5. Sivagami

... Petitioners

/Vs./

1. The Revenue Divisional Officer,
Palayamkottai, Tirunelveli.
2. Mariappan,
3. Muthu Venkatesh,
4. Antony Elsi,
5. Deepa Sundari
6. Bharathi,
7. Chinnakannan,



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8. Sarmila
9. Rubansanthakumar,
10. Subramanian,
11. Sathyalakshmi,
12. The Thasildar
Palayamkottai Taluk,
Tirunelveli District.
13. Sudalaimuthu
14. Ani Creeta,
15. Ananthaselvakumaran,
16. A.N.Anantharamasubbu @ Ram Ananth
17. Narayanan,
18. Jothi Ganesh,
19. Anantha Ramakrishnan
20. Johnson Jesuraj
21. Jothimani
22. Iyappan,
23. Murugan,
24. Aruna
25. Esakkiammal. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to calling for the records relating to the impugned order of the 1st respondent in Ni.Mu.No.A3/496/2022 dated 02.06.2023 and quash the same.



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For Petitioners : Mr.K.K.Udayakumar
for Mr.H.Arumugam

For Respondents : Mr.S.Kameswaran,
Government Advocate for R1&2

: Mr.S.Meenakshi Sundaram,
Senior Counsel for Mr.T.Arivukumar
for R3, 5, 7 and 8

W.P.(MD)No.16337 of 2023

1. Aruna
 2. Esakkiammal
 3. Muthu Venkatesh
 4. Antony Elcy
 5. Bharathi
- ... Petitioners

/Vs./

1. The Revenue Divisional Officer,
Palayamkottai,
Tirunelveli.
 2. The Tahsildar
Palayamkottai Taluk,
Tirunelveli District.
 3. Anantha Ramakrishnan
 4. Johnson Jesuraj
 5. Ananatha Selvakumaran
 6. A.N.Anantharamasubbu @ Ram Ananth
 7. Narayanan
 8. Jothi Ganesh.
- ... Respondents



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For Petitioners : Mr.K.K.Udayakumar
for Mr.H.Arumugam

For Respondents : Mr.S.Kameswaran,
Government Advocate for R1&2

: Mr.S.Meenakshi Sundaram,
Senior Counsel for Mr.T.Arivukumar
for R3, 22 to 25

: No appearance for R4,8-12, 20 & 21

COMMON ORDER

I have heard Mr.K.K.Udayakumar, learned counsel for the petitioners in both petitions, Mr.S.Kameswaran, learned Government Advocate for the respondents 1 and 2 in both petitions and Mr.S.Meenakshi Sundaram, learned Senior Counsel for the respondents 3 and 22 to 25 in W.P(MD)No. 15196 of 2023 and the respondents 3, 5, 7 and 8 in W.P.(MD)No.16337 of 2023. I have also gone through the records, including the impugned order passed by the first respondent.



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2. The petitioners in both the petitions challenge the order of the first respondent in Ni.Mu.No.A3/496/2022 dated 02.06.2023.

3. The case of the petitioners is that they are the purchasers of housing sites in an approved lay out, comprised in S.No.705/4B of Pudukulam Village, Palayamkottai Taluk, Tirunelveli District. The petitioners have constructed houses, which are assessed to taxes with the panchayat and the petitioners are residing there.

4. According the learned counsel for the petitioners, Mr.K.K.Udaya Kumar, vast extent of land comprised in survey No.705/4 originally belonged to one R.Pitchaiya Reddiyar and others. Subsequently, the said survey number was subdivided as S.Nos.705/4A and 705/4B with an extent of 0.73 Hectare and 1.19.5 Hectare respectively. Patta was also mutated in favour of one Muthukrishnan Reddiyar and Manorama vide patta Nos.1129 and 834 respectively. The said Ramasamy Reddiyar along with his son, viz., Nambi Reddiyar executed a sale deed dated 03.10.1960 in favour of one Periyathambi Nadar, whose name was also included in the patta by the first respondent in proceedings dated



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11.06.1962. However, the District Revenue Officer, Tirunelveli, reversed the said order and remitted the matter to the Deputy Tahsildar for fresh consideration. After conducting enquiry, the Deputy Tahsildar by order dated 12.08.1963 included the name of Periyathambi Nadar and removed the name of Ramasamy Nadar, the vendor.

5. It is the further case of the petitioners that the said Periyathambi Nadar died, leaving behind his son, viz., Srinivasan and the said Srinivasan inherited the property and he therefore executed a Will dated 26.05.1998 in favour of his son, viz., Elango in and by a registered Will vide document No.21/1998. Having become the absolute owner, the said Elango executed a power of attorney in favour of one Subbiah on 05.11.2008, vide registered document No.2702/2008. The power agent divided the total extent of land in three portions and sold the southern portion measuring 1 Acre to one Esakki under registered sale deed dated 11.12.2008, vide document No.11173/2008 and thereafter, the said Esakki executed a power of attorney deed dated 21.06.2010 to one Sankaran, who in turn sold the said property in favour of one Jothimani and Iyappan under registered sale deed dated 26.05.2011. Having



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purchased the said one Acre, the said Jothimani and Iyappan had executed a power deed in favour of the fourth respondent on 28.09.2012. The middle portion measuring 1 Acre was sold to Sankaran under registered sale deed dated 12.12.2008, who also gave a power of attorney to the fourth respondent on 11.09.2012. The remaining northern portion of 0.95 Acre was sold to one Murugan, under registered sale deed dated 12.12.2008, who in turn gave a power of attorney to one Jothimani and Iyappan on 05.08.2010 and the said Jothimani and Iyappan, sold the same to the fourth respondent under a registered sale deed dated 28.09.2012.

6. The learned counsel for the petitioners would further submit that the fourth respondent having sold the entire lands, formed a lay out consisting of 62 plots and also got the same regularized vide proceedings dated 03.04.2018 by the competent authority and the lay out has been named as “Royal Palace Layout”. The plots have been sold out to various innocent purchasers, out of whom the petitioners in both the writ petitions are few of such purchasers. The Deputy Tahsildar has also issued pattas in the name of the petitioners, who are in possession and the



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respective houses that have been constructed on the plots purchased.

While so, the third respondent has approached the first respondent for cancellation of patta issued to the petitioners, based on the partition deed dated 14.07.1972. According to the third respondent, the subject property was allotted to the family members of Narayanasamy Reddiyar, namely, Anantha Padmanabhan, the father of the respondents 7 and 8, Anantha Ramakrishnan /third respondent herein, Minor Anantha Selvakumar / fifth respondent, Minor Anantha Ramasubbu / sixth respondent in W.P.(MD)No.16337 of 2023.

7. The learned counsel for the petitioners would submit that without any notice to the petitioners or their purchasers in title, the legal heirs of Ramasamy Reddiyar, have approached the Deputy Tahsildar to rectify the patta by including the name of Ramasamy Reddiyar and removing the name of the predecessor in title of the petitioners. The learned counsel for the petitioners would submit that the petitioners' title is evident from 1937, paisalathi register and subsequent A register as well as UDR records and for more than 90 years, the right and entitlement of the predecessor in interest, has rightly and clearly been established. He



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would further contend that the Zonal Deputy Tahsildar was also not having any jurisdiction to include the name of Ramasamy Reddiyar and remove the name of the predecessor-in-interest of the writ petitioners. He would further submit that DTR, on which patta has been changed pertains to title deed of the property comprised in S.No.10/4 in Reddiyarpatti Village, which has nothing to do with the subject Pudukulam Village. He also contends that if at all any mistakes had crept in UDR, the competent authority is only the District Revenue Officer and not the Deputy Tahsildar. He would therefore submit that the order passed by the first respondent, confirming the order of the Deputy Tahsildar is without jurisdiction and patently illegal.

8. Per contra, Mr.S.Meenakshi Sundaram, learned Senior Counsel, would submit that the order of the first respondent is an appealable order, under the statute and without taking resort to the alternative remedy which is effective and efficacious, the petitioners ought not to have approached this Court directly under Article 226 of the Constitution of India. Without prejudice to the preliminary objections with regard to the maintainability of the writ petitions, the learned counsel would further



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submit that the lands in survey No.705/4 and other survey numbers in Pudukulam Village belonged to Pitcha Reddiyar and eight other Reddiyar community people, which is evident from the A register. He would therefore submit that the predecessors in title of the respondents, viz., Anantha Reddiyar's name was also found in the revenue authorities, along with Pitcha Reddiyar and others.

9. The learned Senior Counsel, would submit that the claim of the petitioners through Pitchaiya Reddiyar is different from Pitcha Reddiyar and according to Mr.S.Meenakshi Sundaram, learned Senior Counsel, both the persons were different persons and not one and the same. He would further submit that when admittedly there is no partition, Ramasamy Reddiyar could not have claimed any exclusive right over any portion of survey No.705/4 including subdivided S.Nos.705/4A and 705/4B. He would further submit that after 12.08.1963, when patta mutation was issued, the petitioners have not been able to establish beyond Periyathambi Nadar or his successor in interest and how they became entitled to the subject property. He would further submit that when the UDR scheme was implemented in 1986 in Tirunelveli District,



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the name of Ramasamy Reddiyar was by mistake interlineated and it is only the successors in interest of Anantha Reddiyar, who have been in possession and enjoyment of the property, by paying kist, and also by family partition on 14.07.1972 among the family members, claiming under the said Anantha Reddiyar. On coming to know the interlineation of Ramasamy Reddiyar, the respondents have moved the revenue authorities regarding their entitlement, the second respondent passed the order, which is now challenged in these writ petitions. The learned counsel would further submit that in terms of G.O.(Ms.)No.192(1) dated 15.06.1991, the second respondent was the then competent authority to rectify any error committed at the time of Updating of the Register and only much later, in and by G.O.(Ms.)No.385 dated 17.08.2004, the power of rectification of error committed in UDR scheme was conferred on the District Revenue Officer. Therefore, the learned Senior Counsel would contend that the arguments of the learned counsel for the petitioners that the order passed by the second respondent is without jurisdiction, has no substance. He would further submit that the petitioners purchased the property from persons, who had no title and therefore, the petitioners can only approach the competent civil Court and redress their grievances.



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10. I have considered the submission advanced by the learned counsel on either side.

11. I am also mindful of the settled legal position of law with regard to the scope of power available to revenue authorities. The Hon'ble Division Bench of this Court in *Vishwas Footwear Company Ltd., V. The District Collector* reported in *2011 (5) CTC 94*, has held that when patta has been issued to a person and on the strength of title or by virtue of some other position, and the person makes an application for cancellation of said patta and both persons claimed title over the same property, then the Revenue Divisional Officer, as held by this Court, cannot adjudicate such disputed questions accepting the case of one person and proceedings to cancel the patta. The Hon'ble Division Bench further held that the right course to be adopted by the Revenue Divisional Officer in such case, is only to refer the applicant who has come before him, seeking for cancellation of patta to approach the civil Court, especially when his claim is disputed by the individual who is holding the patta granted by the competent authority.



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12. The learned counsel for the petitioners would rely on the decision of the Hon'ble Division Bench in *M.Subramanian V. V.K.R Subramania Athithan* reported in *2014-59-R.C.R.(Civil)-244*, where it is held that when there is a dispute with regard to the title, while applying for patta, the parties should be relegated to the competent civil Court for adjudication of their title dispute.

13. The learned counsel for the petitioners would also rely upon the decision of the Hon'ble Supreme Court in *Edelweiss Asset Construction Company Limited V. R.Perumalswamy and others* reported in *2021-11-SCC-98*, where the Hon'ble Supreme Court held that under the Tamil Nadu Patta Pass Book Act 1983 and the Tamil Nadu Patta Pass Book Rules 1987, the Tahsildar is not empowered to adjudicate upon a 'title dispute'. A combined reading of Section 14 and Rule 4(4) indicates that where there exists a dispute with respect to ownership of a land between parties with respect to a patta entry, the correct procedure to be adopted is to approach a civil court having competent jurisdiction. The entry records will be updated on the basis of the decree of the civil court upon adjudication.



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14. Keeping in mind the above settled principles, testing the facts of this case, there is no quarrel with regard to the fact that rival claims regarding title exists in the present matter. The petitioners' claim is to have purchased plots under an unapproved lay out, tracing title to one person. However, on the contrary, the contesting respondents claim title to another person and claimed right over the very same property. Therefore, with regard to adjudication of such title disputes, it is trite law that the revenue authorities cannot enter into such disputed questions and decide the matter. Therefore, only question that remains is as to who should approach the competent civil Court, whether the writ petitioners or the contesting respondents.

15. In view of the facts narrated herein above, it is seen that the petitioners are all purchasers of individual plots, which have been approved / regularized by the Planng Authority and most of them have also put up construction and have paid property taxes and other taxes / charges to the public / revenue authorities. In fact, patta has also been issued in favour of the petitioners. While so, the third respondent has



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approached the Deputy Tahsildar only in the year 2001 and got patta rectified by including the name of Ramasamy Reddiyar and removing the name of the predecessors-in-interest of the petitioners. The proceedings under which the said change was given effect to has been produced by the petitioners by way of Information obtained under the Right to Information Act. It is clear that the Deputy Tahsildar in DTR No. 218/2001 dated 09.07.2001, which is referred to by the second respondent is not relating to the subject property at all. It relates the property in survey No.10/4 of Reddiyarpatti Village. In any event, when patta was already standing in the name of the petitioners and the third respondent stated a claim over the title to the very same property and sought for modification of the revenue entries, the second respondent ought not to have entered into examination of the said application, which clearly involved rival claims to title. The second respondent ought to have directed the third respondent to approach the competent civil Court. This would have been the proper course of action to be adopted by the second respondent.



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16. Applying the ratio laid down by the Hon'ble Division Bench of this Court as well as the Hon'ble Supreme Court discussed herein supra, the first respondent has also confirmed the order of the second respondent, without independent application of mind, ignoring the settled legal position.

17. In view of the above, I am inclined to allow the writ petition. Hence, this Writ Petitions are allowed and the impugned order passed by the first respondent dated 02.06.2023 is quashed, giving liberty to the contesting respondents to approach the competent civil court for redressing their grievance, if any, in accordance with law. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No
NCC : Yes / No
LS

15.04.2025

TO:-

1. The Revenue Divisional Officer,
Palayamkottai, Tirunelveli.

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2. The Tahsildar
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Madurai.



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P.B. BALAJI, J.

LS

Pre- delivery Orders made in
W.P.(MD)Nos.15196 and 16337 of 2023

Dated:
15.04.2025