



W.A.(MD)No.1917 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 04.07.2025

CORAM:

**THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA
AND
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

**W.A.(MD)No.1917 of 2024
and
C.M.P.(MD) No.14264 of 2024**

Muthabaranam (Died)

Amalavendhan (Died)

1.Anbuchelvan

2.Sirumalar

... Appellants 1 & 2/
Respondents 6 & 7

Vs.

1.The District Revenue Officer,
Collectorate,
Madurai-625 020.

2.The Revenue Divisional Officer,
Collectorate,
Madurai-625 020.

3.The Tahsildar,
Melur Taluk,
Melur-625 106,
Madurai District.

... Respondents 1 to 3/
Respondents 1 to 3

4.Shanthi

5.Karuppiah

... Respondents 4 & 5/
Petitioners 1 & 2

1/12



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PRAYER: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 04.07.2022 made in W.P.(MD) No.1780 of 2017 on the file of this Court.

For Appellants : Ms.G.Dhanaseeli Gunaseelan Muthiah
For RR1 to 3 : Mr.B.Ramanathan
Additional Government Pleader
For R4 : Ms.P.Jessi Jeeva Priya

JUDGMENT

[Judgment of the Court was delivered by G.ARUL MURUGAN, J.]

This intra-Court appeal is filed challenging the order of the writ Court dated 04.07.2022 made in W.P.(MD) No.1780 of 2017, whereby the order of the first respondent-District Revenue Officer was set aside and the parties were given liberty to approach the jurisdictional Tahsildar to identify the property on ground.

2. The issue in the writ appeal is that originally the deceased Muthabaranam claimed right over 10 cents in S.No.284/21. Since there was a dispute with the private respondents herein, the said Muthabaranam had filed a suit in O.S.No.451 of 1991 claiming for a declaration of title and also for consequential permanent injunction.



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After contest, by judgment and decree dated 20.06.1996, the suit came to be dismissed. However, the trial Court only relegated the parties to approach the Tahsildar, Melur for identifying the properties on ground. It is to be noted that when the plaintiff in the suit in O.S.No.451 of 1991 had made an exclusive claim of title over the property measuring 10 cents in S.No.284/21, such a claim came to be rejected by the civil Court. However, based on the documents relied on by the plaintiff, the trial Court came to the conclusion that the plaintiff is entitled for the land purchased by her, but only on an identification of the property on ground, the identity of the property purchased by the plaintiff could be located, had dismissed the claim of the plaintiff.

3. Aggrieved by the decision of the trial Court, the plaintiff had preferred an appeal in A.S.No.17 of 1997 on the file of the I-Additional Subordinate Court, Madurai. The lower appellate Court, by judgment and decree, dated 31.08.1998, allowed the appeal and reversed the judgment and decree of the trial Court declaring the title of the plaintiff in respect of the claim made for 10 cents in S.No.284/21. However, on the appeal preferred by the fourth and fifth respondents herein in S.A.No.1621 of 2000 before this Court, this Court by judgment and decree dated 25.01.2008, allowed the appeal and



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restored the judgment and decree of the trial Court. As such, in view of the judgment and decree passed by this Court in the second appeal, the claim of the plaintiff in respect of 10 cents in S.No.284/21 stands rejected and the judgment has reached finality. Thereafter, the plaintiff has approached this Court in W.P.(MD) No.2437 of 2011 seeking for a direction to the authorities to consider her representation in respect of grant of patta. By order dated 25.03.2011, the writ petition came to be disposed of by directing the authorities to conduct a survey and also to take a final decision based on the civil Court's judgment and decree and pass final orders. Pursuant to the orders in the writ petition, the first respondent herein by order dated 26.11.2012 passed the following order:

□திருமதி. முத்தாபரணம் கிரையம் பெற்ற இடம் புதுச்சுக்காம்பட்டி கிராமம், புல எண்:284/1ஏ8பி1-ன் பாகமான 284/17பி 1ஏ மற்றும் 17 லிருந்து பிரிந்த உட்பிரிவுகள் 25 மற்றும் 27 லும் கட்டுபட்டு வருகிறது. திருமதி. முத்தாபரணம் தனது இடத்திற்கு சரியான பதிவு ஆவணங்களை சமர்ப்பிக்கவில்லை. சரியான பதிவு ஆவணங்கள் மேற்படி திருமதி. முத்தாபரணம் சமர்ப்பிக்கும் பட்சத்தில் மேற்கூறிய உட்பிரிவு 284/17ன் பாகங்களை சரிபார்த்து கவனத்துடன் பரிசீலனை செய்து உரிய உத்தரவுகள் பிறப்பிக்கவும் மேலூர் வட்டாட்சியருக்கு உத்தரவிடப்படுகிறது.□



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4. Challenging the said order of the first respondent, the plaintiff also preferred a writ petition in W.P.(MD) No.15677 of 2012. The writ Court, by order dated 25.04.2014, set aside the order of the first respondent and had remanded the matter to the authority by allowing the plaintiff to submit necessary documents, which could be considered in its own merits.

5. Based on the remand, the first respondent herein by order dated 21.09.2016, held that the civil rights can be decided only by the civil Court and in view of the orders passed in the writ petition, the patta in favour of the plaintiff was directed to be restored in respect of the lands in S.No.284/21 for 10 cents.

6. This order was put to challenge by the fourth and fifth respondents herein in W.P.(MD) No.1780 of 2017. Pending writ petition, Muthabaranam, the plaintiff in O.S.No.451 of 1991 died and the appellants herein, who are the legal heirs of the deceased Muthabaranam, were substituted. The writ Court by order dated 04.07.2022, had allowed the writ petition and set aside the orders of the first respondent holding that unless the properties are identified



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on ground, a conclusion cannot be arrived at and therefore, relegated the parties to approach the jurisdictional Tahsildar to identify the property on ground.

7. The learned counsel appearing for the appellants vehemently contended that when earlier orders were passed in the writ petition by setting aside the order and on remand, the first respondent had rightly directed the authorities to restore the patta in the name of Muthabaranam, the writ Court had interfered in the order on the ground that the property has not been identified. It is the vehement contention of the learned counsel by placing reliance on the judgment of the trial Court that already an Advocate Commissioner was appointed in the suit and the Advocate Commissioner's report was marked as Ex.C.1 and therefore, there is no further identification need to be undertaken and in such regard, the conclusion arrived by the writ Court is erroneous and sought for interference.

8. Per contra, the learned counsel appearing for the fourth respondent submitted that even though an Advocate Commissioner was appointed and a report was filed, however, the suit filed by the plaintiff came to be rejected. When the plaintiff lost throughout, her claim for the 10 cents in S.No.284/21 has been negated and also the

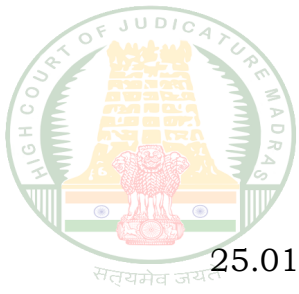


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patta issued in favour of the plaintiff herself is in respect of S.No. 284/17D3C, it is for the appellants to work out their remedy and identify the property and make a rightful claim to the property for which they are entitled. In that aspect also, only if survey is conducted by the appropriate authorities, the appellants will be benefited and when the plaintiff had lost, the appellants by filing this appeal cannot defeat the right of the private respondents from obtaining patta for the property, which has already been confirmed by the decision arrived at by the civil Court.

9. Heard the rival submissions and perused the material available on record.

10. Admittedly, the appellants herein make a claim in respect of 10 cents in S.No.284/21. In this regard, as referred earlier, the suit in O.S.No.451 of 1991 came to be dismissed, wherein the claim of the plaintiff for declaration of title and also consequential injunction was rejected and the trial Court however, had relegated the parties to approach the jurisdictional Tahsildar for identification of the properties. The judgment of the trial Court even though initially was reversed by the lower appellate Court, however, by the judgment and decree passed by this Court in S.A.No.1621 of 2000, dated 7/12



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25.01.2008, the judgment and decree of the trial Court was restored, whereby the rejection of the claim made by the plaintiff in respect of S.No.284/21 attained finality.

11. Even though the appellants had been making repeated claims before the authorities and also approaching this Court, it could be seen that only in the first round of litigation, a direction was issued to the authorities to conduct a proper survey and enquiry. However, the appellants had not submitted proper documents and as a result of which, earlier the first respondent passed order rejecting the claim of the plaintiff in respect of claim for 10 cents in S.No.284/21. In the second round of litigation, this Court by order dated 04.07.2022 in W.P.(MD) No.1780 of 2017, had only allowed the writ petition and remanded the matter to the authority by allowing the plaintiff to submit necessary documents to substantiate her claim. However, on remand, the first respondent had passed orders directing for restoration of the patta in the name of the plaintiff. On the challenge made by the private respondents before the writ Court in W.P.(MD) No.1780 of 2017, the writ Court, rightly by considering the fact that already the rights between the parties have been arrived at by the decision of the civil Court, had relegated the parties to approach the jurisdictional Tahsildar to identify the property so that the issues



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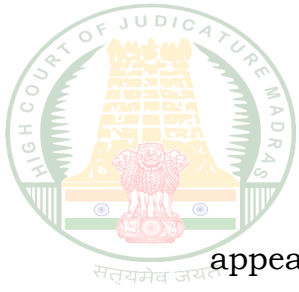
could be sorted out.

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12. It is to be noted that a patta has already been issued in the name of the plaintiff jointly along with other persons for the lands purchased by her and patta No.1668 of Pudhuchukkampatti Revenue Village, Madurai District stands in the name of the plaintiff in S.No. 284/17D3C. When admittedly the patta stands in the name of the plaintiff for this survey number, the plaintiff having lost her rights in the civil Court, having been confirmed by this Court in the second appeal, cannot again continue to agitate her claim in respect of the 10 cents in S.No.284/21. When the writ Court rightly analysed this aspect and also while allowing the writ petition, directed the parties to approach the authorities for conducting proper demarcation and survey, we do not find any infirmity in the decision arrived at by the writ Court. Further, considering the fact that the plaintiff had already lost her claim and also is having the patta issued in her favour in respect of some other property, only if the same is identified, the appellants will be able to make a rightful claim for the property purchased by her.

13. In view of the above, this Writ Appeal stands dismissed.

14. It is now submitted that in view of the pendency of the writ



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appeal, the patta has not been issued in favour of the private respondents, despite survey having been conducted after the disposal of the writ petition.

15. It is made clear that in view of the dismissal of this Writ Appeal, the private respondents will be entitled to obtain patta in respect of the lands purchased by them for which the authorities will take appropriate proceedings in this regard. No costs. Consequently, connected miscellaneous petition is closed.

[A.D.J.C., J.] [G.A.M., J.]
04.07.2025

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

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To

- 1.The District Revenue Officer,
Collectorate,
Madurai-625 020.
- 2.The Revenue Divisional Officer,
Collectorate,
Madurai-625 020.
- 3.The Tahsildar,
Melur Taluk,
Melur-625 106,
Madurai District.



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A.D.JAGADISH CHANDIRA, J.
and
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