



W.P.(MD)No.2341 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : **20.02.2025**

Delivered on : **26.02.2025**

CORAM:

THE HONOURABLE MR JUSTICE P.B. BALAJI

W.P.(MD)No.2341 of 2016

and

W.M.P.(MD)No.2067 of 2016

U. Karuppaiah (Died),
Thilagavathi
(petitioner substituted vide Court order dated
14.03.2023)

... Petitioner

/Vs./

1. The District Revenue Officer
Sivagangai District,
Sivagangai.
2. The Revenue Divisional Officer,
Devakottai, Sivagangai District.
3. The Thasildar,
Taluk Office, Karaikudi,
Sivagangai District.
4. M. Karuppaiah, (Deceased)
5. Muthukumar



W.P.(MD)No.2341 of 2016

WEB COPY

(R5 is substituted

vide Court Order dated 28.03.2023)

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order of the 1st respondent herein dated 16.11.2015 made in Na.Ka.B1/25897/2013 confirming the order dated 07.10.2013 made in Mu.Mu.A1/2881-2013 on the file of the 2nd respondent herein and quash the same and direct the respondents 1 to 3 herein to grant patta in the name of the petitioner in S.No.104/19 (21 cents) and 104/6 (56 cents) in Kallal village, Karaikudi Taluk, Sivagangai District.

For Petitioner : Mr.Raguvaran Gopalan
for Mr.G.Mohan Kumar

For Respondents : Mr.B.Saravanan
Additional Government Pleader for R1-3

: Mr.H.Lakshmi Shankar
for Mr.B.Muruganandam for R5

ORDER

The Writ Petition has been filed challenging the impugned order of the first respondent dated 16.11.2015 made in Na.Ka.B1/25897/2013 confirming the order dated 07.10.2013 made in Mu.Mu.A1/2881-2013 on the file of the second respondent and to direct the respondents 1 to 3



W.P.(MD)No.2341 of 2016

WEB COPY

to grant patta in the name of the petitioner in S.No.104/19 (21 cents) and 104/6 (56 cents) in Kallal village, Karaikudi Taluk, Sivagangai District.

2. I have heard Mr. Raghuvaran Gopalan for Mr.G.Mohan Kumar learned counsel appearing for the petitioner, Mr.B.Saravanan, learned Additional Government Pleader appearing for the respondents 1 to 3 and Mr. H.Lakhsnmi Shankar for Mr.B.Muruganandam, learned counsel for the fifth respondent.

3. The learned counsel appearing for the petitioner would submit that the subject matter in dispute pertains to two Survey Nos.104/6 and 104/19. The first respondent, in by the impugned order has directed the parties to approach the civil Court. Aggrieved by the order of the first respondent, the petitioner has challenged the same in the instant writ petition. According to the learned counsel for the petitioner, the properties in the subject survey numbers belonged to the grand-father of the petitioner, one Adaikappan Ambalam, who sold a portion of the property to one Palaniyappa Nadar wayback in the year 1953. The remaining lands were retained in the family and patta was also issued to



W.P.(MD)No.2341 of 2016

WEB COPY

the petitioner's father, viz., Udayapuli. It is the further case of the petitioner that the petitioner and his mother executed a power of attorney on 29.12.2008 in favour of one P.Nehru, empowering the power agent to dispose of the subject lands. In furtherance of the said the power of attorney, the power agent also executed a sale deed in favour of the fourth respondent on 19.01.2009. However, it is the specific case of the petitioner that the said sale deed was cancelled by a registered cancellation deed on 14.12.2011 and therefore, the fourth respondent had no title to claim under the said sale deed in his favour which had been cancelled to his full knowledge. However, despite cancellation of the said sale deed, the fourth respondent has obtained patta in his favour, without notice to the petitioner. The said patta was challenged by the petitioner before the second respondent. However, the second respondent rejected the claim of the petitioner. Aggrieved by the said order of the second respondent, the petitioner preferred an appeal before the first respondent. The first respondent in by the impugned order, directed the parties to approach the competent civil Court.



W.P.(MD)No.2341 of 2016

WEB COPY

4. The learned counsel for the petitioner, Mr. Raghuvaran Gopalan, would submit that the first respondent did not consider the effect of the cancellation deed and when the sale deed in favour of the fourth respondent had been cancelled, the fourth respondent cannot seek for issuance of patta. He would therefore submit that the impugned order passed by first respondent is perverse, illegal and consequently liable to be set aside.

5. Per contra, Mr.H.Lakshmi Shankar, appearing for the fifth respondent would submit that pending the writ petition, the fourth respondent in whose favour originally, the sale deed was executed and subsequently cancelled, died and in his place, the fifth respondent has been substituted. Mr.H.Lakshmi Shankar would take me through the contents of the cancellation deed and submit that even though the fourth respondent was a party to the cancellation deed, the only premise on which the sale deed in favour of the fourth respondent was cancelled was that the sale deed itself was wrongly executed, as the properties were already owned by the fourth respondent. Therefore, Mr.Lakshmi Shankar, would submit that when the petitioner himself had



W.P.(MD)No.2341 of 2016

WEB COPY

acknowledged the fact that the fourth respondent was already owning the subject lands and proceeded to cancel the sale deed in favour of the fourth respondent, the petitioner cannot have any grievance over the fourth respondent, proceeding to obtain patta in his favour. The learned counsel for the fifth respondent, Mr.H.Lakshmi Shankar, would also take me through the claim of the fourth respondent, independent of the sale deed, dated 19.01.2009 executed by the petitioner. He would therefore submit that there is absolutely no error or infirmity in the order of the first respondent directing the petitioner to approach the civil Court. This pertains to only survey No.104/6.

6. Coming to the other survey No.104/19, the findings of the first respondent is that it is a pathway and therefore, both the petitioner as well as the fourth respondent, now represented by fifth respondent will have to workout their remedies independently by approaching the competent civil Court. Insofar as the said survey number is concerned, I have gone through the findings of the fifth respondent and I am unable to see any impropriety or illegality in the findings of the first respondent. The first respondent has found that both the petitioner and the fourth



W.P.(MD)No.2341 of 2016

WEB COPY

respondent had not produced satisfactory documentary evidence to substantiate their respective claims to Survey No.104/19 and therefore, the first respondent directed the parties to approach the competent civil Court. No grounds for challenge have been made to assail the said findings of the first respondent. Therefore, I do not see any necessity to upset the directions of the first respondent.

7. In view of the above, I see no merit in the Writ Petition and accordingly, this Writ Petition is dismissed with liberty to the petitioner to move the competent civil Court to establish her title in accordance with law, in respect of Survey No.104/6 and in respect of Survey No. 104/19, it is open to both the petitioner and the fifth respondent, if they deem fit and necessary, to approach the competent civil Court to claim right to said survey number. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No
NCC : Yes / No
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26.02.2025



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W.P.(MD)No.2341 of 2016

P.B. BALAJI, J.

LS

TO:-

1. The District Revenue Officer
Sivagangai District,
Sivagangai.
2. The Revenue Divisional Officer,
Devakottai, Sivagangai District.
3. The Thasildar,
Taluk Office, Karaikudi,
Sivagangai District.

Order made in
W.P.(MD)No.2341 of 2016

Dated:
26.02.2025