



W.P.(MD)No.24929 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : **27.02.2025**

Delivered on : **10.03.2025**

CORAM:

THE HONOURABLE MR JUSTICE P.B. BALAJI

W.P.(MD)No.24929 of 2024

and

W.M.P.(MD)No.21215 of 2024

J.Mohan

... Petitioner

/Vs./

1. The Revenue Divisional Officer,

Thirumangalam, Madurai.

2.The Tahsildar,

Thirupparankundram Taluk,

Madurai District.

3.Pushpa

Meenakshi

Vasu

Visalakshi

rep. through their power agent

Mathankumar

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the impugned order passed by the first respondent vide Ni.Mu.No.5555/2023/अ4 dated 20.09.2024 and to



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set aside the same as Arbitrary, ultravires and illegal in respect of the property comprised in S.No.154/3C5B2 to an extent of 0.20.0 Ares in patta No.4344 situated in Thanakankulam Village, Thirupparankundram Taluk, Madurai District.

For Petitioner : Mr.Babu Rajendran

For Respondents : Mr.B.Saravanan
Additional Government Pleader for R1&2

: Mr.G.Prabu Rajadurai
for Mr.K.Muthumalai for R3

ORDER

The writ petitioner challenges the order of the first respondent vide Ni.Mu.No.5555/2023/अ4 dated 20.09.2024.

2. I have heard Mr.Babu Rajendran, learned counsel for the petitioner, Mr.B.Saravanan, learned Additional Government Pleader, for the respondents 1 and 2 and Mr.G.Prabu Rajadurai, learned counsel for Mr.K.Muthumalai, learned counsel for the third respondent.

3. The case of the petitioner is that the property comprised in S.No. 154/3 to an extent of 1 Acre 25 Cents originally belonged to one



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K.V.R.S. Mani Iyer. The said Mani Iyer had settled the said property in favour of his son K.R.Venkatraman on 23.01.1961 vide document No. 903/1961. In turn, the said K.R.Venkatraman sold the said property under sale deed dated 21.02.1963 in favour of one Muthammal @ Mariammal under document No.1163/1963. Subsequently, on 07.11.1964, the said K.R.Venkatraman and one Pushpam Ammal executed an exchange deed to an extent of 50 cents in S.No.154/3 under document No.7474/1964. The said Pushpam Ammal in and by sale deed dated 02.03.1966 conveyed the said extent of 50 cents in favour of Muthammal @ Mariammal under document No.2856/1966. It is the contention of the petitioner that the entire extent of 1.75 Acres thus belonged to said Muthammal @ Mariammal.

4. It is the further case of the petitioner that the said Muthammal @ Mariammal entered into an agreement of sale with one Rathinam Ammal, on 19.07.1981. The said agreement holder also filed a suit for specific performance in O.S.No.426 of 1982, which was decreed in favour of Rathinam Ammal and the Subordinate Judge directed the said Muthammal @ Mariammal to execute the sale deed. Exeuction Petition



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in E.P.No.158/1993 was filed and the learned III Additional Subordinate Judge, Madurai, also executed a sale deed in favour of Rathinam Ammal, on 21.12.1994 vide document No.5136/1994. It is the further case of the petitioner that the said Rathinam Ammal also took possession of the subject property through Court on 05.12.1997.

5. The further contention of the petitioner is that S.No.154/3 was subdivided as S.No.154/3C5B1 of an extent of 1.25 Acres and joint patta issued in the names of Rathinam Ammal, Subba Reddiar and K.R.Venkatraman, vide patta No.1820 in respect of remaining 50 cents it was subdivided as S.No.154/3C5B2 and individual patta was issued in the name of Rathinam Ammal vide patta No.2302.

6. The case of the petitioner is that Rathinam Ammal executed a sale deed in favour of one Kalarani, on 18.11.1998 in respect if the said 50 cents and patta was also transferred in her name, vide patta No.1054. Having purchased the property, the said Kalarani executed a registered sale deed in favour of the brother of the petitioner, namely, Pradeep Kumar and also patta was also mutated in his name. According to the



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petitioner, in and by partition deed entered into between the petitioner and his family members on 04.03.2013, the property measuring 50 cents was allotted to the petitioner and he has also obtained patta in his name on 28.02.2014 vide patta No.4344. According to the petitioner, he has been in possession and enjoyment of the said 50 cents, having also obtained electricity service connection and is paying kists to the revenue authorities. The petitioner was constrained to file O.S.No.1401 of 2015 before the Subordinate Judge, Thirumangalam, seeking declaration and injunction, in view of the claim of one Eswari. The said suit was subsequently transferred to the V Additional District Judge, Madurai, and decreed in favour of the petitioner on 11.04.2023. One Mayan, who had instigated Eswari to claim title over the petitioner's property made an application seeking transfer of patta in the name of Sahundala, claiming that she had purchased the property in S.No.154/3C5 and patta also issued in her name vide patta No.460 on 02.06.2007 and that the patta No.4344 was wrongly issued to the petitioner. On enquiry, the first respondent has passed the impugned order. Aggrieved by the same, the petitioner has filed the present writ petition.



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7. The learned counsel for the petitioner, Mr.Babu Rajendran, would submit that that first respondent ought to have relegated the parties to the civil Court and ought not to have passed the impugned order. He would further submit that in any event, the first respondent has not even considered the petitioner's claim to title which dates back to the year 1961 and as late as in the year 2023, the petitioner was declared to be the owner of the subject property by the competent civil Court. The learned counsel for the petitioner would further submit that the first respondent has not even considered the various documents relied on by the petitioner and the first respondent has passed the impugned order without jurisdiction and non application of mind. According to the petitioner, the writ petition is very well maintainable and the petitioner need not be driven to file an appeal as available under the statute.

8. The learned counsel for the petitioner would also rely on the judgments of the Hon'ble Division Bench of this Court reported in **2011(5) CTC 94 (Vishwas Footwear Company Ltd., V. The District Collector)** and reported in **2019 (2) CTC 656 (M/s. Shree Arunachala**



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CTC 823 (T.R.Dinakaran V. The Revenue Divisional Officer).

9. Placing reliance on the above decisions, the learned counsel for the petitioner would submit that when there is a dispute as to title the parties should be directed to approach the competent civil court for adjudication of the said disputes and the revenue authorities cannot decide such disputed questions and that when there is a dispute with regard to identification of property, then the issuance of patta should be kept in abeyance till the rights of parties adjudicated before the competent civil Court.

10. Per contra, Mr.Prabu Rajadurai, learned counsel for the third respondent would first and foremost contend that the writ petitioner without resorting to the effective alternative remedy available under the statute, can not maintain the writ petition, since an appeal remedy is available to the District Revenue Officer concerned. Apart from the preliminary objection, the learned counsel for the third respondent would submit that third respondent's mother Sahundala had purchased 50 cents



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from K.R.Venkatraman, the original owner even as early as on 09.07.1971, in and by registered sale deed with four clear boundaries. He would refer to a separate patta issued to Sahundala in respect of survey No.154/3C5. He would further contend that even during preparation of UDR, the third respondent's name was entered into the village 'A' register and subsequent to the death of Sahundala, her legal heirs have been in physical possession and enjoyment of the said 50 cents. He would further contend that the measurement as well as the boundaries in the sale deed dated 09.07.1971 in favour of the third respondent's mother and the exchange deed dated 07.11.1964 are entirely different and the petitioner managed to delete the name of the third respondent's name and got his name entered, without notice to the third respondent's mother. Only on coming to know of such unilateral mutation and deletion of the name of the third respondent's mother, an appeal was preferred to the first respondent and the first respondent after conducting an enquiry has passed the order, which is impugned in the present writ petition. The learned counsel for the third respondent would therefore pray for dismissal of the writ petition.



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11. Toeing the same line, the learned Additional Government Pleader, Mr.B.Saravanan, would also contend that the order passed by the first respondent is a well considered order. Further, it is appealable under the provisions of the Act and therefore, there is no merit in the writ petition and he also sought for dismissal of the writ petition.

12. I have carefully considered the submissions advanced by the learned counsel on either side. I have also gone through the impugned order passed by the first respondent.

13. The first respondent has considered the claim of the third respondent as well as the objections of the writ petitioner and also considered various documents that have been filed and relied on by the respective parties to the proceedings before the first respondent. Ultimately, the first respondent found that patta was rightly mutated in the name of Sahundala, who is the mother of the third respondent and without any notice to her or proper enquiry being conducted the mutation of patta in the name of Rathinam Ammal was improper. The first respondent also discussed the effect of the judgments which have been



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relied on by the learned counsel for the petitioner before the first respondent. The first respondent has also rendered a categorical finding that the subject matter of the civil litigation was only survey No. 154/3C5B1 and not survey No.154/3C5B2 and therefore, rightly directed the restoration of patta in the name of Sahundala and directed the aggrieved parties to approach the competent civil Court. The first respondent has also observed that if any of the parties are aggrieved by the said order passed, it would be open to the aggrieved party to prefer a revision before the District Revenue Officer within 30 days. Even according to the learned counsel for the petitioner when there are serious disputed questions of title, the revenue authorities should relegate the parties to the civil Court. The learned counsel for the petitioner has placed reliance on the three decisions of this Court in this regard. The petitioner is aggrieved only by the direction to mutate the patta in the name of Sahundala, I do not find any illegality or patent error committed by the first respondent in directing the restoration of patta in the name of Sahundala, the mother of the third respondent, since the first respondent rightly discussed the documents produced on either side and a to the conclusion that when patta had been mutated in the name of Sahundala,



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even in the year 1979, the said patta could not have been transferred in the name of any other person, without even giving an opportunity to said Sahundala, to contest the patta transfer application. The claim of the petitioner is only based on patta issued to Rathinam Ammal, only in the year 1998, when patta had already been mutated in the name of Sahundala under whom the said Rathinam Ammal did not claim any right or interest. Therefore, I do not find any erroneous findings arrived at by the first respondent. In fact, if the petitioner is aggrieved by the order of the first respondent, the petitioner has two options; (i) the petitioner can approach the civil Court to establish his right in a properly instituted civil suit or (ii) if it is the grievance of the petitioner that the first respondent has not considered the various documents produced by the petitioner in a proper manner, then it is always open to the petitioner to avail the statutory revision available to the District Revenue Officer, under Section 13 of the Patta Passbook Act.

14. Though it is contended by the learned counsel for the petitioner that the impugned order has been passed without jurisdiction, and thereby the writ petition is maintainable, I do not find that there has been



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any erroneous assumption of jurisdiction on the part of the first respondent. I am unable to countenance the submissions of the learned counsel for the petitioner. The writ petition is liable to be dismissed. However, the petitioner is at liberty to file a statutory revision under Section 13 of the Patta Passbook Act, 1983 and if any such revision is preferred within a period of four weeks from the date of receipt of copy of this order, then the District Revenue Officer, Madurai shall entertain the said revision without putting the question of limitation against the petitioner and shall proceed to dispose of the revision on its own merits and in accordance with law after hearing the petitioner as well as the third respondent and any other interested parties.

15. In fine, the Writ Petition is dismissed. The Registry is directed to return the original impugned order dated 20.09.2024 to the learned counsel for the petitioner on necessary acknowledgment being filed by the learned counsel for the petitioner within a period of two weeks from the date of receipt of copy of this order and within a period of two weeks thereafter, the petitioner if advised shall file a statutory revision before the District Revenue Officer, Madurai and the same shall be disposed of



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as dictated in para 14 supra. Of course, it is needless to state that if the petitioner intends to file a comprehensive civil suit it shall be always open to the petitioner to take to resort to such a recourse. There shall be no order as to costs.

Index : Yes / No
NCC : Yes / No
LS

10.03.2025

TO:-

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2. The Tahsildar,
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P.B. BALAJI, J.

LS

Pre-delivery Order made in
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Dated:
10.03.2025