



W.P.(MD) No.24981 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:19.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.P.(MD) No.24981 of 2024

and

W.M.P(MD)Nos.21289 and 21291 of 2024

Keerthiga Lakshmi

... Petitioner

vs.

1.The Revenue Divisional Officer,
O/o. The Revenue Divisional Office,
Tenkasi District.

2.The Tahsildar,
O/o. The Tahsildar,
Tenkasi Taluk,
Tenkasi District.

3.Arunachalam

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned enquiry notice dated 22.09.2024 in Na.Ka.No.A3-1112-2024 and quash the same as illegal consequently directing the first respondent to stop all further proceedings in respect of cancelling the patta pending suit in O.S.No.293 of 2024 on the file of the Principal District Munsif, Tenkasi.



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For Petitioner : Mr.D.S.Haroon Rasheed

For Respondents : Mr.C.Satheesh
Government Advocate for R1 & R2

Mr.R.Paranjothi for R3

ORDER

The petitioner has filed the instant writ petition challenging the enquiry notice dated 22.09.2024 in Na.Ka.No.A3-1112-2024 and consequently to forbear the first respondent from cancelling the patta pending suit in O.S.No.293 of 2024 on the file of the Principal District Munsif, Tenkasi.

2.Heard the learned counsel on either side.

3.The case of the writ petitioner is that she is the owner of the property comprised in S.Nos.333/2A1, 334/2, 341/1A, 344/1B, 345/7, 345/8, 346/10, 346/14, 346/2A1A and 361B at Kulakesakarapatti Village, Tenkasi District. She has become entitled to the same under the settlement deed executed by her husband in Document No.1061 of 2024, dated 23.01.2024. Based on the said settlement deed, the petitioner has also mutated the patta in her name. The



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admitted case of the parties is that the grandmother of the petitioner's husband, namely, Lakshmithai, who was blessed with four children, by name, Arunachalam, Muthuraj, Sanjeevi Rajan and Anjadevi, was owning these subject lands. The said Lakshmithai executed her last Will and testament on 03.11.2012, bequeathing the property of her estate to her five grandsons. One of the said five grandsons is the husband of the writ petitioner, who was bequeathed the third schedule of the property under the said Will. The Will, according to the petitioner, took effect on the demise of Lakkshmithai on 25.09.2013 and the revenue records were also mutated in the name of the petitioner's husband.

4.However, when the petitioner's husband placed reliance on the said Will, desirous of settling the properties on the writ petitioner, the Sub Registrar refused to register the settlement deed and the same prompted the petitioner's husband to approach this Court in W.P(MD)No.2123 of 2024 challenging the refusal check slip. The said writ petition was allowed by this Court and the settlement deed was also registered. Subsequently, the petitioner's husband obtained patta and in view of the settlement deed in favour of petitioner, patta transfer application was made on 16.04.2024. Thereafter, the petitioner again approached this Court in W.P(MD)No.10977 of 2024 seeking a direction to the Tahsildar to survey the



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lands and the same was disposed of on 30.04.2024 with certain directions regarding the survey and demarcation of the petitioner's property to be carried out. The third respondent, in the meantime, filed an application in W.M.P(MD)No.10856 of 2024 to recall the order passed by this Court in W.P(MD)No.10977 of 2024 and the said application was disposed of on 27.06.2024. The petitioner has also filed a suit in O.S.No.293 of 2024 before the Principal District Munsif, Tenkasi against the private respondents, namely, the third respondent herein and the other legal heris. The said suit is pending. At this stage, the enquiry notice was issued to the petitioner seeking cancellation of the patta issued in the name of the petitioner. Challenging the said enquiry notice, the petitioner has filed the instant writ petition and the writ petition came to be taken on file on 21.10.2024 and this Court also granted an order of interim stay returnable by the next date of hearing, ie., on 18.11.2024.

5.Today when the matter is taken up for final disposal, Mr.C.Satheesh, learned Government Advocate appearing for the official respondents 1 and 2 would bring to my attention to the order in Na.Ka.RDOTKS-A3/1112/2024, dated 11.10.2024, in and whereby final orders have been passed by the Revenue Divisional Officer, the first respondent in the writ petition, even prior to the



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interim order being granted by this Court. He would therefore submit that the only option open to the writ petitioner is to now challenge the impugned order and cannot pursue the present petition, since the relief has become infructuous.

6.I have carefully considered the submissions advanced by the learned counsel on either side.

7.The Will of Lakshmithai will be the deciding factor as to the entitlement of the petitioner or the third respondent for mutation of patta in their respective names. Admittedly, there is a civil suit pending in O.S.No.293 of 2024 before the Principal District Munsif, Tenkasi, where all the legal heirs of the said Lakshmithai, are admittedly arrayed as parties. In the said suit, the alleged Will of Lakshmithai will be tested and the competent civil Court will render a finding as to the truth and genuineness of the said Will.

8.The learned counsel for the petitioner also submits that though patta was mutated in the name of the petitioner, without any notice to the petitioner, the patta was cancelled and orders were passed by the first respondent.



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WEB COPY 9. However, the said argument is refuted by the learned Government Advocate for the official respondents 1 and 2 stating that all the orders were passed only pursuant to the directions from this Court and there has been no violation of any principles of natural justice.

10. Be that as it may, everything revolves around the genuineness of the Will, which is going to be tested and decided by the Civil Court in O.S.No.293 of 2024. Therefore, in view of the above, considering the rival contentions of the parties and the factum of the ultimate decision revolving around the genuineness of the Will of Lakshmithai, it is just and proper to set aside the impugned order.

11. In the light of the above, this Writ Petition is allowed and the impugned order dated 22.09.2024 in Na.Ka.No.A3-1112-2024 is set aside. The first respondent is directed to restore the patta in the name of the original owner Lakshmithai and subject to the decision of the civil Court regarding the genuineness of the Will of the said Lakshmithai, further mutation of patta shall be effected and carried out. The Principal District Munsif, Tenkasi, shall dispose of the suit in O.S.Nos.293 of 2024 and 315 of 2024 along with the counter claim filed by the writ petitioner, within a period of six months from the date of receipt



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of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

19.02.2025

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NCC: Yes/No

Index : Yes / No

Internet : Yes / No

To

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2.The Revenue Divisional Officer,
O/o. The Revenue Divisional Office,
Tenkasi District.

3.The Tahsildar,
O/o. The Tahsildar,
Tenkasi Taluk,
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P.B.BALAJI, J.

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