



W.P.(MD)No.25518 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : **28.02.2025**

Delivered on : **12.03.2025**

CORAM:

THE HONOURABLE MR JUSTICE P.B. BALAJI

W.P.(MD)No.25518 of 2024

and

W.M.P.(MD)No.21648 of 2024

N. Devadoss

... Petitioner

/Vs./

1. The District Collector
Sivagangai District,
Sivagangai.
2. The District Revenue Officer (DRO)
Office of the District Revenue Officer,
Sivagangai.
3. The Revenue Divisional Officer (RDO)
Devakottai, Sivagangai District.
4. The Tahsildar
Karaikudi Taluk, Karaikudi,
Sivagangai District.
5. Meenal

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the impugned proceedings dated 30.08.2024 of the 3rd respondent in Pa.Mu.A1/8955/2023 and quash the same and consequently directing the



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respondents 1 to 4 herein to take suitable action for mutation of Patta in Conformity with the judgement and decree of Civil Court in A.S.No.58 of 1968 on the file of Sub Court, Devakkottai, dated 24.12.1969 confirmed by this Court.

For Petitioner : Mr.S.Manikandan

For Respondents : Mr.S.Kameswaran
Government Advocate for R1-4

: Mr.C.Sundaravadivel for R5

ORDER

This Writ petition has been filed challenging the order of the third respondent in Pa.Mu.A1/8955/2023 and to consequently direct the respondents 1 to 4 herein to mutate the patta, in line with the judgment and decree of the Sub Court, Devakkottai, in A.S.No.58 of 1968 dated 24.12.1969, which subsequently came to be confirmed by this Court in S.A.No.725 of 1970 dated 08.09.1972.

2. I have heard Mr.S.Manikandan, learned counsel appearing for the petitioner, Mr.S.Kameswaran, learned Government Advocate for the respondents 1 to 4 and Mr.C.Sundaravadivel, learned counsel for the fifth respondent.



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3. The case of the petitioner is that the property comprised in S.No.55/1, measuring 1.91 Acre in Amaravathipudur Village, Karaikudi Taluk, Sivagangai District, besides other properties belonged to his father, Late.Nachiappan Ambalam, vide registered sale deeds dated 13.11.1951 and 28.10.1953, registered as document Nos.2878/1951 and 276/1953 respectively and from the date of purchase, he was in possession and enjoyment of the property. While so, the said property in S.No.55/1 was mutated wrongly including the name of one Chinna Rakkappan Ambalam as a joint owner. Challenging the joint patta, the petitioner's father filed a suit in O.S.No.372 of 1966 before the District Munsif, Devakkottai, against one Ramasamy Ambalam, S/o.Chinna Rakkappan, as the said Chinna Rakkappan passed away at that relevant point of time. The trial Court dismissed the suit. However, on appeal in A.S.No.58 of 1968, the Sub Court, Devakkottai, allowed the appeal filed by the petitioner's father, as against which, the said Ramasamy Ambalam filed a second appeal in S.A.No.725 of 1970 and this Court confirmed the judgment of the first Appellate Court and dismissed the second appeal. Therefore, the contention of the learned counsel for the petitioner is that the petitioner's title has been confirmed and the petitioner's father was



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having the right to the entire extent of 1.91 Acre in S.No.55/1 and the judgment having become final, no rights could have been claimed by the defendant / Ramasamy Ambalam.

4. It is the further case of the petitioner that during the life time of his father, viz., Nachiappan Ambalam, he conveyed an extent of 95 ½ cents on the Eastern half to his elder son Subbaiah and his wife Vallikannu, in and by registered sale deed dated 07.12.1979, in document No.1528/1979 and the remaining western half of 95 ½ cents was allotted to the petitioner and the petitioner is claiming to be an enjoyment of the same.

5. The grievance of the petitioner is that taking advantage of the joint patta including the name of Chinna Rakkappan, the husband of the fifth respondent claimed a right based on the alleged relinquishment deed said to have been executed by Chinna Rakkappan and got settlement deed dated 09.06.2021, which was registered in favour of the fifth respondent and based on the same, the fifth respondent has mutated the revenue records in her name. The learned counsel would therefore



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submit that when the competent civil Courts have already declared the right of the petitioner, the documents executed behind the back of the petitioner would be of no avail and would not bind the petitioner. However, the learned counsel would submit that despite these admitted facts, the third respondent has virtually sat on appeal over the judgment and decree of this Court in Second Appeal and proceeded to pass the impugned order, confirming the mutation of patta in the name of the fifth respondent.

6. The learned Government Advocate, Mr.S.Kameswaran, would submit that the third respondent called for the records from the Village Administrative Officer and having found that the revenue records mutated continuously in the names of the Nachiappan Ambalam and Chinna Rakkapan and the petitioner never took steps from 1972 to correct the revenue records and when the fifth respondent claimed right and also filed a suit in O.S.No.165 of 2024 before the Sub Court, Devakottai, as against the writ petitioner and pending the said suit, the revenue authorities cannot recite complex questions of title and therefore rightly the impugned order came to be passed.



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7. The learned counsel for the fifth respondent would submit that only because of the petitioner's father was well aware of the right of Chinna Rakkappan, he never took steps to challenge the joint patta including the name of Chinna Rakkappan and therefore, the claim of the petitioner is that the extent of 95 ½ cents to the petitioner was unsustainable. Further, he would contend that the fifth respondent had already filed a suit and the same is pending and therefore, the third respondent was not competent to enquire into the matter and pass any orders. Therefore, he would submit that the third respondent had rightly passed the impugned order and he would therefore pray for confirming the said order and dismissing the writ petition.

8. I have carefully considered the submissions advanced by the learned counsel on either side. I have gone through the impugned order as well as the documents and the decisions on which the reliance placed on by the learned counsel on both sides.



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9. The claim of the fifth respondent is that Nachiappan Ambalam had right only in respect of 95 ½ cents, which was duly settled in favour of his elder son and the remaining 95 ½ cents admittedly belonged to Chinna Rakkappan and that is the reason why Nachiappan Ambalam never questioned the same, until his demise in the year 1997.

10. Be that as it may, as contended by the learned counsel for the petitioner when a suit had been filed before the competent civil Court way back in the year 1966 by the petitioner's father against the son of Chinna Rakkappan, viz., Ramasamy Ambalam and in the said suit initially though the trial Court dismissed and rejected the case of the petitioner's father, on appeal in A.S.No. 58 of 1968, the suit came to be decreed and the second appeal preferred by the Ramasamy Ambalam in S.A.No.725 of 1970 came to be dismissed by this Court on 08.09.1972.

11. On perusal of the judgment and decree of the Courts below as well as this Court in the second appeal, it is clear that the entitlement of Ramasamy Ambalam, S/o. Chinna Rakkappan, was thoroughly discussed, based on the oral and documentary evidence adduced by the parties and



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the petitioner's father was handed a decree for not only declaration but also permanent injunction. That being the case, any further documentation executed by Chinna Rakkappan and the subsequent settlement deed claiming right under Chinna Rakkappan would not convey any valid title. Mere fact that the fifth respondent has filed O.S.No.165 of 2024 cannot be a reason to once again drive the petitioner to another round of litigation, when the matter already attained finality, with the dismissal of the second appeal before this Court, in respect of the very same property. The third respondent has also ignored the status report filed before this Court in W.P.(MD)No.28 of 2024, when the revenue authorities have admitted the factum of earlier proceedings attaining finality before this Court, upholding the title of petitioner's father, Nachiappan Ambalam. Despite the same, the impugned order has been passed by the third respondent, not only contrary to the status report filed before this Court in a connected writ petition, but also ignoring the judgment and decree of this Court, confirming the judgment and decree of the Appellate Court in A.S.No.58 of 1968. Mere pendency of another suit filed in O.S.No.165 of 2024, which is much after finality attained to the issue in S.A.No.725 of 1970, cannot prevent the authorities from



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effecting mutation in terms of the judgment and decree confirmed by this Court. The fifth respondent is bound by the judgment and decree in S.A.No.725 of 1970 and by merely filing a fresh suit, the fifth respondent cannot postpone the mutation of records in favour of the petitioner, based on the earlier judgment and decree.

12. In view of the above, the impugned order, directing the petitioner to approach the civil Court and thereafter, seek for necessary issuance of patta is misconceived and unsustainable in the eye of law, especially, when the judgment and decree in A.S.No.58 of 1968 and confirmed by this Court in S.A.No.725 of 1970 has been totally ignored.

12. For all the above reasons, I am inclined to set aside the impugned order. Hence, the impugned proceedings dated 30.08.2024 passed by the third respondent in Pa.Mu.A1/8955/2023, is hereby set aside and the respondents 1 to 4 shall issue patta in the name of the petitioner. The said exercise shall be completed within a period of four (4) weeks date of receipt of a copy of this order.



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13. In fine, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No
NCC : Yes / No
LS

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4.The Tahsildar

Karaikudi Taluk,
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P.B. BALAJI, J.

LS

Pre-delivery Order made in
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Dated:
12.03.2025