

W.P.(MD) No.29691 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED:12.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.P.(MD) No.29691 of 2023

and

W.M.P(MD)Nos.25614 and 25926 of 2013

R.Mathialagan

... Petitioner

vs.

1.The District Revenue Officer,
Thanjavur District.

2.The Revenue Divisional Officer,
Thanjavur, Thanjavur District.

3.R.Pappathiammal

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records on the files of the second respondent pertaining to its proceedings in Tha.Pa.No.11/2016/A5, dated 05.04.2018 and consequential proceedings passed by the first respondent in Tha.Pa.29/2018/U(2) dated 07.07.2023 and to quash the same as illegal.

For Petitioner : Mr.N.Balakrishnan

For Respondents : Mr.B.Saravanan
Additional Government Pleader for R1 & R2



W.P.(MD) No.29691 of 2023

ORDER

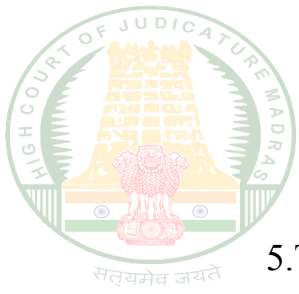
WEB COPY

The petitioner challenges the impugned order of the first respondent in Tha.Pa.No.29/2018/U(2), dated 07.07.2023.

2.At the request of the third respondent, Pappathiammal, patta in favour of the petitioner's father, Ramaiyah Pappuvettayar has been cancelled. The said order of the second respondent is also under challenge in the present writ petition.

3.Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the official respondents 1 and 2.

4.The specific case of the petitioner is that in O.S.No.2 of 1948 before the Sub Court, Thanjavur, in a partition suit, the parties recorded a compromise and decree was also passed on 21.03.1950. Under the said decree, the subject lands, in respect of which patta was granted to the petitioner's father, were allotted to the petitioner's father and therefore, without properly appreciating the said compromise decree, the respondents proceeded to cancel the patta in favour of the petitioner's father.



W.P.(MD) No.29691 of 2023

5.The learned counsel for the petitioner would draw my attention to the consent decree and also the impugned order.

6.I find that the suit for partition in O.S.No.2 of 1948 has been decreed on 21.03.1950 based on the compromise. The decree has been engrossed on stamp papers and thereby indicating that the suit has been finally disposed of by the compromise decree, thereby, not warranting any further final decree to be passed in the matter. It is also seen that the father-in-law of the third respondent, who sought for cancellation of the patta in favour of the petitioner's father, was himself a party to the said suit. Therefore, in the light of the compromise decree already passed by a competent civil Court way back in the year 1950 and the petitioner's father has been in enjoyment of the subject lands allotted to him under the said decree, the official respondents ought to have taken these material factors into consideration while considering the request of the third respondent. However, I find from the impugned order that no such course has been adopted by the official respondents. In fact, the second respondent has acknowledged the fact that the decree has been passed on 21.03.1950, but states that since no final decree has been passed, she is not in a position to act thereupon. Insofar as the third respondent is concerned, she claims only under her father in law, who was a party to the said suit and therefore, she cannot get any better rights than her father in



W.P.(MD) No.29691 of 2023

law. The suit having ended in a compromise and the decree also having been drafted and engrossed on necessary non-judicial stamp papers, there is no justification for the respondents to ignore the said decree and proceed to pass an order of cancellation of patta. I also find on a perusal of the impugned order, there has been no independent application of mind by the first respondent, who has merely verbatim copied the order passed by the second respondent. On this ground as well, the matter requires to be reconsidered effectively.

7. Therefore, I am inclined to set aside the impugned order and remit the matter to the first respondent. Accordingly, this Writ Petition is allowed and the impugned order is set aside. The matter is remitted to the first respondent for fresh consideration of the application of the third respondent, especially, taking into the fact that the decree passed by the competent civil Court in O.S.No.2 of 1948, dated 21.03.1950. The first respondent shall afford an opportunity of hearing to the petitioner as well as the third respondent and proceed to dispose of the said appeal, within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

12.02.2025

sjj



W.P.(MD) No.29691 of 2023

NCC: Yes/No

Index : Yes / No

Internet : Yes / No

To

- 1.The District Revenue Officer,
Thanjavur District.
- 2.The Revenue Divisional Officer,
Thanjavur, Thanjavur District.



WEB COPY



W.P.(MD) No.29691 of 2023

P.B.BALAJI, J.

sjj

W.P.(MD) No.29691 of 2023

12.02.2025