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**(2014) 04 MAD CK 0198**

**In the Madras High Court**

**Case No :** W.P. (MD) No. 12676 of 2011, M.P. (MD) Nos. 2 of 2011 and 1 of 2012

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|---|---|
| A. Asirul Fasil represented by his Power Agent, S. Ahamed Mustafa | APPELLANT |
| Vs | |
| The District Revenue Officer cum Additional District Judicial Magistrate, The Revenue Divisional Officer, The Tahsildar, Thiruvadanai and M. Seguali Uduman | RESPONDENT |

**Date of Decision :** 04-04-2014

**Acts Referred:**

Civil Procedure Code, 1908 (CPC) — Section 9
Constitution of India, 1950 — Article 136, 226

**Citation :** (2014) 04 MAD CK 0198

**Hon'ble Judges :** R. Mahadevan, J

**Bench :** Single Bench

**Final Decision :** Partly Allowed

## Judgement

R. Mahadevan, J.—This writ petition has been filed seeking a writ of Certiorarified Mandamus to call for the records relating to the proceedings of the first respondent made in Na. Ka. B5/CR/12/2011, dated 07.10.2011 as well as the order of the second respondent dated 26.05.2011 made in Na. Ka. No. A6/1475/2010, and quash the same and pass suitable orders directing the respondents 1 to 3 herein to issue patta in favour of the petitioner in respect of the property in S. No. 182/5, Vattanam Group, Thiruvadanai Taluk and Ramanathapuram District. Brief facts of the case of the petitioner, are as follows:

1.1. Originally, the property in S. No. 182/5 to an extent of 2.02.5 hectares at Vattanam Group, Thiruvadanai Taluk, Ramanathapuram District, belonged to one Naina Lebbai and he sold the same to the petitioner for a valid consideration through a registered sale deed dated 06.03.1992. When the said sale was effected, he was minor and his grandfather paid the sale consideration as a guardian and maintained the same till he attained majority. Thereafter, the petitioner approached the third respondent and obtained the transfer of patta in his favour on 13.12.2002.

1.2. According to the petitioner, the fourth respondent herein fraudulently sold an extent of 25 cents out of the said property to one U. Nathar Siddiq by sale deeds dated 02.02.2011 and 04.02.2011 and 1 acre 31 cents in favour of S. Subaida Begam and 4 acres in favour of three others as well. Thereafter, the fourth respondent approached the second respondent by filing an appeal on 07.03.2011 challenging the order of patta transfer in favour of the petitioner. In spite of the petitioner filing all relevant documents regarding the property in question, the second respondent directed the third respondent to maintain the records in the name of Mohamed Naina Lebbai, by setting aside the order of patta transfer.

1.3. Aggrieved by the same, the petitioner filed a revision before the first respondent herein, who directed the parties to approach this Court in respect of the property in question and to maintain status quo till the orders of this Court. Challenging the same, the petitioner is before this Court.

2. In the counter affidavit filed by the fourth respondent, it is inter alia contended as follows:

2.1. The property in S. No. 182/5 to an extent of 2.02.5 hectares, is situated at Thamotharapattinam Village, Vattanam Group, Thiruvadanai Taluk, Ramanthapuram District and the fourth respondent sold the said property to an extent of 1 acre 31 cents on 02.02.2011 and thereafter, sold the remaining land on 04.02.2011. At that point of time, the fourth respondent came to know that the petitioner claimed that he had purchased the said land from the father of the fourth respondent and hence, he denied the said sale effected in favour of the petitioner.

2.2. According to the fourth respondent, his property is situated in S. No. 182/5 at Thamodarapattinam Village, Vattanam Group, Thiruvadanai Taluk, whereas the petitioner created the sale deed in respect of S. No. 182/5, Parappuvayal village. In the sale deed dated 06.03.1992, the signature of the fourth respondent being the legal heir of his father, did not find a place. After coming to know the same, he filed an appeal before the second respondent, who on enquiry, cancelled the patta stood in the name of the petitioner and directed to issue patta in the name of the fourth respondent by order dated 26.05.2011. Being dissatisfied with the same, the petitioner filed the revision before the first respondent, who by order dated 07.10.2011, directed the parties to approach this Court since he is not in a position to decide on the title of the property. Accordingly, the fourth respondent prayed for the dismissal of the writ petition.

3. The petitioner has challenged the proceedings of the first respondent in Na. Ka. B5/CR/12/2011 dated 07.10.2011 and the order of the second respondent in Na. Ka. No. A6/1475/2010, wherein the patta issued to him has been cancelled and patta has been restored in the name of the Mohamed Naina Lebbai.

4. The learned Counsel for the petitioner contended that the property in dispute was sold to him by Naina Lebbai who is the father of the fourth respondent. Ever since the purchase, he has been in absolute possession and enjoyment and patta

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also was issued in his favour on 13.12.2002. While so, the very same property has been sold by the fourth respondent in parts in favour of many parties as if it is some other property. Based on the same, the second respondent has cancelled the patta issued in favour of the petitioner and restored the patta in favour of the father of the fourth respondent after enquiry. Aggrieved by the same, the petitioner filed an appeal before the first respondent, who has dismissed the appeal with a direction to the petitioner to approach this Court. Further, when there is a dispute regarding title, the 2nd respondent cannot change the patta but can only direct the parties to approach the civil Court.

5. The learned Counsel for the petitioner also relied upon the following decisions:

(i) Chockkappan and Others Vs. The State of Tamil Nadu and Others, .

(ii) C. Sabesan Chettiar (deceased) and Others Vs. The District Revenue Officer, The Revenue Divisional Officer, The Tahsildar and R. Padmanabhan, .

(iii) Vishwas Footwear Company Ltd. Vs. The District Collector and Others .

(iv) M/s. GMMCO Limited Vs. The Government of Tamil Nadu and Others . and sought for setting aside the impugned proceedings and restoration of patta in his name.

6. Per contra, the learned Senior Counsel appearing for the fourth respondent contended that the writ jurisdiction cannot be invoked for deciding the title of the property. He further contended that the property sold to the petitioner is different from the properties sold by the fourth respondent. It is only after considering the same, the 2nd respondent has ordered cancellation of the patta issued in the name of the petitioner and restored the same in the name of Naina Lebbai. Since the first respondent cannot decide the title, he has rightly relegated the petitioner to approach this Court.

7. In support of his contentions, the learned Senior Counsel appearing for the fourth respondent also placed reliance upon the following decisions:

(i) Kuppuswami Nainar Vs. The District Revenue Officer and Others, .

(ii) Suraj Bhan and Others Vs. Financial Commissioner and Others, .

(iii) P. Jebamani v. The District Revenue Officer reported in CDJ 2010 MHC 7713.

(iv) L. Vadivudaiyal @ Sigappi Vs. District Revenue Officer and Others .

8. The learned Government Advocate appearing for the respondents 1 to 3 contended that only after following the due process, the order impugned came to be passed by the respondents 1 and 2 and if at all, the petitioner is aggrieved, he has to approach the civil Court.

9. I have considered the rival submissions and perused the materials available on record.

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10. It is not in dispute that there is a dispute as to the title of the property between the petitioner and fourth respondent and the subsequent purchasers. This Court cannot go into the title disputes regarding title under Article 226 of the Constitution of India. This Court can interfere only if the respondents 1 to 3 have not followed the procedures prescribed under the Patta Pass Book Act and the Board Standing orders and also when the order is shocking to the conscience. Hence this court is not inclined to go into title claims of the parties.

11. Now, this Court has to analyse the judgments relied upon by the Counsel for the petitioner. In the Judgment in Chockkappan and Others Vs. The State of Tamil Nadu and Others, , this court has held as follows:

5. Coming to the facts of the case, it is not in dispute that the petitioners are the co-owners of the land and they were granted joint patta as early as on 16.7.1984, The name of the 3rd respondent was included by the Zonal Tahsildar, Aruppukottai after a period of 11 years i.e., on 27.10.1995 after deciding the title in favour of the 3rd respondent which ought to have been agitated only in the Civil Court. Though the Revenue Officials are empowered to consider the prima facie consideration of the right of the parties for the grant of patta, when the patta stands in the name of a particular person, inclusion of others in the patta is impermissible, that too, on consideration of title by the Revenue Officials. In all fairness, the Zonal Tahsildar, Aruppukottai ought to have directed the 3rd respondent to first establish her title before the Civil Court before any inclusion is made in the patta, as it is not the case of fresh patta but inclusion of 3rd respondent in the patta which already stand in the name of the petitioners. In this context, the impugned order cannot be sustained as the 3rd respondent''s name has been included only after the decision rendered by the Revenue Officials regarding the title of the 3rd respondent. Hence, the impugned order is set aside. However, liberty is given to the 3rd respondent to work out her remedy in Civil Court as to her title over the land in question and in the event, the 3rd respondent has obtained a decree in her favour she can make her application for inclusion of her name in the patta. The Writ petition is allowed with the above observation. No costs. Consequently, W.P.M.P. No. 39936/2003 is closed.

12. In the Judgment in C. Sabesan Chettiar (deceased) and Others Vs. The District Revenue Officer, The Revenue Divisional Officer, The Tahsildar and R. Padmanabhan, , the Division Bench of this Court has held as follows:

29. As per Section 4 of the Tamil Nadu Patta Pass-Book Act, 1986 (4 of (1986), the entries in the Patta Pass-book and the certified copies of entries in the Patta Pass-book shall be presumed to be true and correct, until the contrary is proved or a new entry is lawfully substituted therefor. As a matter of fact, Section 6 of the Act envisages that the entries in the Patta Pass-book issued by the Tahsildar as per Section 3 shall be prima facie evidence of title of the person, in whose name the Patta Pass-book has been issued to the parcels of land entered in the Patta Pass-book, free of any prior encumbrance, unless otherwise specified therein. However, the Patta Pass-book being a prima facie evidence is a

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rebuttable presumption in law, as opined by this Court.

30. From a reading of Rule 4(4) of the Tamil Nadu Patta Pass Book Rules, it is clear that if the Tahsildar is satisfied that a dispute concerning ownership of patta is already pending in a Court or issues are raised before him which impinge on personal laws or laws of succession and all the parties interested do not agree on the ownership in writing, he shall direct the concerned parties to obtain a ruling on ownership from a competent Civil Court having jurisdiction before changing the entries already recorded and existing in the various Revenue Records. The Learned Single Judge, in paragraph No. 19 of the order, had specifically held that in terms of Sub-Rule (4) of Rule 4, the First Respondent/District Revenue Officer ought to have directed the parties to go before the competent Civil Forum for adjudication of dispute with regard to the ownership, as the Fourth Respondent/ Writ Petitioner and the Deceased Appellant/Fourth Respondent disputes the version projected by each one of them.

31. At this juncture, we deem it appropriate to quote the decision of this Court in Samsuddin Rowther and Another Vs. Avvammal and Others, , wherein, in paragraph 33, it is observed as follows:

33. Thus it is seen that the patta passbook is only providing prima facie evidence and it is rebuttable. The Proviso to Sec. 14 of this Act enables an aggrieved person to file a suit. In the present case, these proceedings are already pending in which the question of title is canvassed. The patta-passbook issued during the pendency of these proceedings will not conclude the question. Whoever wins in these proceedings ultimately, is entitled to get the entry in the patta passbook rectified in accordance with the decision. There is no substance in the argument that the only remedy of the defendants is only to file a fresh suit against the plaintiffs for declaration of their title under the Specific Relief Act. Learned counsel submits that the burden is placed squarely on the defendants by this Act and it is for them to establish their title by so independent proceeding. I do not agree. Evidence has been let in by both the parties in the present proceedings and the question of title was already in issue. Hence, there is no necessity for the defendants to file a fresh suit to decide the question of title.

32. Section 12 of the Tamil Nadu Patta Pass-Book Act, 1986 refers to filing of an Appeal by any person aggrieved by an order made by the Tahsildar within such period as may be prescribed, appeal to such authority as may be prescribed and the decision of such authority on such appeal shall subject to the provisions of Section 13, be final.

33. Added further, Section 13 of the Tamil Nadu Patta Pass-Book Act, 1986 deals with preferring of Revision which runs as follows:

Any officer of the Revenue Department not below the rank of District Revenue Officer authorised by the Government, by notification in this behalf for such area as may be specified in the notification, may of his own motion or on the application of a party call for and examine the records of any Tahsildar or

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appellate authority within his jurisdiction in respect of any proceeding under this Act and pass such orders as he may think fit: Provided that no such order prejudicial to any person shall be made unless he has been given a reasonable opportunity of making his representation.

34. As per Section 9 of the Civil Procedure Code, if a suit is expressly or impliedly barred under a provision of law, the Court cannot take cognizance of it. However, Section 14 of the Tamil Nadu Patta Pass-Book Act, 1986, though speaks of Bar of Suits by stating that ''No suit shall lie against the Government or any officer of the Government in respect of a claim to have an entry made in any Patta Pass-book that is maintained under this Act or to have any such entry omitted or amended'', yet, the said Section also enjoins as follows: "Provided that if any person is aggrieved as to any right of which he is in possession, by an entry made in the Patta Pass-book under this Act, he may institute a suit against any person denying or interested to deny his title to such right, for a declaration of his rights under Chapter VI of the Specific Relief Act, 1963 (Central Act 47 of 1963); and the entry in the Patta Pass-book shall be amended in accordance with any such declaration.

35. Admittedly, in the instant case on hand, there is a serious dispute with regard to the title of lands measuring an extent of 7.18 acres in S.F. Nos. 547 and 548, Kalapatti Village, Coimbatore District. In cases of this nature, it is not open to the Revenue Authorities, much less the First Respondent/District Revenue Officer, to decide the same. In Civil Law, when there is a dispute between the rival parties touching upon the title to the property, the competent forum would be only the Civil Court. In the instant case, the First Respondent/ District Revenue Officer had not followed such a procedure. However, he had chosen to decide the title in respect of the said property mainly relying upon the reports submitted by the Second Respondent/Revenue Divisional Officer and the Third Respondent/Tahsildar.

13. In the judgment in Vishwas Footwear Company Ltd. Vs. The District Collector and Others , another Division Bench of this Court has held as follows:

20. It is the specific case of the appellant herein that the property was initially registered in the name of one Ramanathan and others, who were granted Patta No. 243 in the year 1963. Thereafter, the property was conveyed to one Palani and he was issued with the Patta No. 707. The said Palani conveyed 80 cents of land in Survey No. 93/3 to one Shoba Ramalingam in the year 1981, who was issued with the Patta No. 459. The appellant company acquired 51 cents of land in Survey No. 93/3 from the said Shoba Ramalingam by a registered sale deed in the year 1992 and was issued with the Patta No. 1515. As far as the other land in Survey No. 93/4A is concerned, the land was originally owned by Shoba Ramalingam having purchased from one Annamalai Chettiar in the year 1981 by a registered sale deed and she has been issued with the Patta No. 459. The appellant company acquired 57 cents from the said Shoba Ramalingam by a registered sale deed of the year 1992 and has been issued with the Patta No.

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1515. It is the specific case of the appellant that a portion of the land to an extent of 0.163 square metres in Survey No. 93/4 was acquired by the Highways Department and they were paid compensation. It is their further case that right from the date of purchase, they are in possession of the land. On the other hand, it is the case of the fourth respondent, E. Kumar that he submitted a petition dated 21.2.2005 requesting the grant of patta in Survey No. 93/3 to an extent of 1.32 acres in favour of Alamelu Ammal from whom he has got power of attorney for the said property. He claimed that the said Alamelu Ammal was the owner of the property. The Revenue Divisional Officer, having gone into the rival claims, ultimately decided that the land belongs to Alamelu Ammal and on that ground the power of attorney holder was entitled to seek for cancellation of patta given in favour of the appellant company and consequently, directed the registration of patta in favour of the said Alamelu Ammal. In the impugned proceedings dated 16.7.2005, for the purpose of cancelling the patta granted in favour of the appellant, the Revenue Divisional Officer, having gone into the rival contentions, found that Thiru Palani Achari, S/o. Kanniappa Achari had mistakenly sold the land to Tmt. Shoba Ramalingam registered in Document No. 743 of 1981. By this finding, he has gone into the genuineness of the sale effected in the year 1981 in the proceedings u/s 12 of the Act after a lapse of nearly 24 years. In our opinion, the dispute being one of civil nature, the title of either the appellant company or the said Alamelu Ammal cannot be gone into by the Revenue Divisional Officer. The Revenue Divisional Officer having gone into such title has not only decided to cancel the patta in favour of the appellant company, but also directed the registration of patta in favour of Alamelu Ammal. Both the above acts are without jurisdiction. In the event the act of the Revenue Divisional Officer is without jurisdiction, the writ petition is maintainable. Accordingly, the contention of Mr. P. Wilson that the writ petition itself is not maintainable cannot be accepted.

21. In the light of the judgments in Kuppuswami Nainars case and Chockkappans case, the person who has applied to the Revenue Divisional Officer for cancellation of patta should be directed to approach the civil Court to establish the title and for seeking the grant of patta after cancelling the patta granted in favour of the appellant company. On this ground, the appellant is entitled to succeed. Accordingly, the order of the learned single Judge is set aside. The order impugned in the writ petition is set aside and the patta granted in favour of the appellant company is restored. However, we make it clear that this order shall not stand in the way of the said Alamelu Ammal to approach the civil Court to establish the title and to consequently seek for cancellation of patta granted in favour of the appellant company and for further direction for grant of patta in favour of the said Alamelu Ammal. With these observations and directions, the writ appeal is allowed. No costs.

14. In the judgment in M/s. GMMCO Limited Vs. The Government of Tamil Nadu and Others , this Court has held as follows:

15. In the light of the said judgments, I am of the view that the impugned order

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passed by the 5th respondent dated 13.1.2011 and the consequential order passed by the 11th respondent dated 16.8.2011 cannot be sustained and accordingly they are set aside. As the title of the petitioner is now disputed, the prayer sought for to transfer patta in favour of the petitioner by application dated 31.12.2008 cannot be ordered. The said issue is well settled in the following decisions:

(a) In the decision reported in P.R. Murlidharan and Others Vs. Swami Dharmananda Theertha Padar and Others, the Supreme Court held that jurisdiction under Article 226 would remain effective and meaningful only when it is exercised prudently and in appropriate situation, and writ of mandamus cannot be sought for, especially when determination of the questions involved did not merely involve interpretation of documents alone, but require adducing of oral evidence, and writ proceedings cannot be a substitute for a civil suit.

(b) In the decisions reported in Arya Vyasa Sabha and Others Vs. The Commissioner of Hindu Charitable and Religious Institutions and Endowments, Hyderabad and Others, ; Rourkela Shramik Sangh Vs. Steel Authority of India Ltd. and Another, ; Steel Authority of India Ltd. and Others etc. etc. Vs. National Union Water Front Workers and Others etc. etc., ; Himmat Singh Vs. State of Haryana and Others, ; Food Corporation of India and Others Vs. Harmesh Chand, ; S.D.O. Grid Corporation of Orissa Ltd. and Others Vs. Timudu Oram, , also the Honourable Supreme Court held that disputed facts cannot be decided in writ petition and parties can approach the appropriate forum.

16. In fine, the writ petition is partly allowed on the above terms. The observations made in this order need not be construed as accepting the case of the petitioner/contesting respondents, in any future proceedings which may be initiated by either party. There is no order as to costs. Connected miscellaneous petitions are closed.

15. The common ratio in all the judgments relied upon by the learned Counsel for the petitioner is that when there is a dispute regarding title, the revenue authorities can only relegate the parties to approach the civil court and cannot go into the title of the parties.

16. Likewise, the judgments relied upon by the learned Senior Counsel appearing for the fourth respondent, are also in the same lines. In the Judgment in Kuppuswami Nainar Vs. The District Revenue Officer and Others, , the Division Bench of this Court held as follows:

4. Now the question for consideration is, having regard to the fact that the District Revenue Officer has expressed his opinion on the question of title whether the order under question should be interfered with. It may be pointed out here that in a petition under Article 226 of the Constitution the question of title regarding immovable property cannot properly be gone into, because a mass of evidence may be required for adjudicating the question of title. Even if we are to interfere with the order under appeal, it is the other party, who has to go to a

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civil court and establish title. As far as the exercise of jurisdiction under Article 226 of the Constitution is concerned, it does not matter to it whether ''A'' party goes to civil court or ''B'' party. Therefore, we are of the view that the question of title has to be decided by the civil court, without reference to the order under question. Hence, we decline to interfere with the order challenged in the writ petition. However, we make it clear that in the event a suit for declaration of title and for appropriate consequential relief is filed, the civil court shall decide such a suit, without reference to the findings recorded by respondents 1 and 2 in the impugned orders, but only on the basis of the pleadings of the parties and evidence adduced by them before it. We also make it clear that any opinion expressed by the learned single Judge, contrary to what we have stated above, shall also stand modified accordingly. With these observations, the writ appeal is dismissed. Consequently, C.M.P. No. 15872 of 1994 filed along with the appeal is also dismissed.

17. In the judgment in Suraj Bhan and Others Vs. Financial Commissioner and Others, , the Hon''ble Apex Court has held as follows:

7. We have heard learned counsel for the parties. We have also perused the relevant record. From the record, it is clear that the main question relates to genuineness or otherwise of Will dated April 14, 1989 said to have been executed by Ratni Devi in favour of respondent No. 5. The validity and genuineness of the Will can only be decided by a competent Civil Court. A suit had already been instituted in a Civil Court and though it was dismissed, the order is subject matter of appeal pending in the appellate court. It is, therefore, neither desirable nor advisable to express any opinion on that question and as and when the matter will come up for hearing, it will be decided on its own merits by the High Court where it is pending.

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9. There is an additional reason as to why we need not interfere with that order under Article 136 of the Constitution. It is well settled that an entry in Revenue Records does not confer title on a person whose name appears in Record of Rights. It is settled law that entries in the Revenue Records or Jamabandi have only ''fiscal purpose'' i.e. payment of land-revenue, and no ownership is conferred on the basis of such entries. So far as title to the property is concerned, it can only be decided by a competent Civil Court (vide Jattu Ram Vs. Hakam Singh and others, ). As already noted earlier, Civil Proceedings in regard to genuineness of Will are pending with High Court of Delhi. In the circumstances, we see no reason to interfere with the order passed by the High Court in the writ petition.

18. In the judgment in L. Vadivudaiyal @ Sigappi Vs. District Revenue Officer and Others , this Court has held as follows:

3. The learned counsel for the respondents 4 to 8 submitted that this Court cannot go into the veracity of the findings given by the authorities in a patta

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proceedings. The Division Bench of this Court in the judgment reported in Kuppuswami Nainar Vs. The District Revenue Officer and Others, has observed as follows:

Now the question for consideration is, having regard to the fact that the District Revenue Officer has expressed his opinion on the question of title whether the order under question should be interfered with. It may be pointed out here that in a petition under Art. 226 of the Constitution the question of title regarding immovable property cannot properly be gone into, because a mass of evidence may be required for adjudicating the question of title. Even if we are to interfere with the order under appeal, it is the other party, who has to go to a civil court and establish title. As far as the exercise of jurisdiction under Art. 226 of the Constitution is concerned, it does not matter to it whether ''A'' party goes to civil court or ''B'' party. Therefore, we are of the view that the question of title has to be decided by the civil court, without reference to the order under question. Hence, we decline to interfere with the order challenged in the writ petition. However, we make it clear that in the event a suit for declaration of title and for appropriate consequential relief is filed, the civil court shall decide such a suit, without reference to the findings recorded by respondents 1 and 2 in the impugned orders, but only on the basis of the pleadings of the parties and evidence adduced by them before it. We also make it clear that any opinion expressed by the learned single Judge, contrary to what we have stated above, shall also stand modified accordingly. With these observations, the writ appeal is dismissed. Consequently, C.M.P. No. 15872 of 1994 filed along with the appeal is also dismissed.

4. Therefore in view of the ratio laid down by the Division Bench of this Court, I am of the opinion that the issue raised in the writ petition cannot be adjudicated before this Court. However it is made it very clear that the dismissal of the writ petition will not stand in the way of the parties in working out their rights in the civil proceedings, if any appeal has been filed against the judgment and decree passed in suit in O.S. No. 56 of 2006 on the file of the District Munsif Court, Periyakulam, Theni District.

19. In the judgment in P. Jebamani v. The District Revenue Officer reported in CDJ 2010 MHC 7713, the Division Bench of this Court held as follows:

6. Learned single Judge of this Court by relying upon the judgments of the Supreme Court and this Court reported in Suraj Bhan and Others Vs. Financial Commissioner and Others, and Kuppuswami Nainar Vs. The District Revenue Officer and Others, , disposed of the writ petition on a finding that a person who had lost his remedy before the revenue authorities, has to seek appropriate remedy only before the Civil Court. In the instant case, the husband of the vendor was the co-owner of the property along with two other persons. The fourth respondent who had purchased the property from the other co-owner is opposing the prayer of the appellant, directing the respondents to effect corresponding mutation in the revenue records by entering the name of the writ

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petitioner in respect of the subject property. In our opinion, since disputed questions of fact are involved in this matter, the appropriate forum is only the Civil Court to decide the issue. We do not find any error in the order passed by the learned single Judge. Hence, the writ appeal is dismissed. No costs.

20. As stated above, all the above judgments lay down the only proposition that the revenue authorities as well as this court cannot go into the title dispute between the parties.

21. As per Rule 4 of the Patta Pass Book Rules, when there is a dispute regarding title, the authority concerned can relegate the parties to civil court without making any alteration in the patta. Insofar as the impugned proceedings passed by the second respondent is concerned, the patta that stood in the name of the petitioner has been cancelled after going into the title, which the second respondent cannot do. He has also not relegated the parties to the civil Court. On this ground, the impugned proceedings of the second respondent, is set aside.

22. Insofar as the order of the first respondent, he has rightly refused to go into the title, but has relegated the petitioner to approach this Court instead of a civil court. The nature of the dispute is such that oral as well as documentary evidences have to be let in. As held above, only a civil court can decide the title dispute between the parties. Therefore, with the above modification, the order of the first respondent is sustained. Either of the party may approach the civil Court to confirm their title and possession. Normally, once the impugned proceedings of the second respondent is set aside, the patta would get restored in the name of the petitioner. Since, the identification of the property itself is in question, the issuance of patta is directed to be kept under abeyance until disposal of the civil suit and the third respondent is directed to issue patta to the appropriate party succeeding in the civil suit. The civil Court shall decide the suit based on the documentary as well as oral evidence excluding the findings of the revenue authorities challenged in this writ petition. With the above directions, the writ petition is partly allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

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