



W.P.(MD)No.19662 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 09.07.2024

Pronounced on : 02.08.2024

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

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and

W.M.P.(MD)Nos.16333 and 16335 of 2021

R.Kalairaja

... Petitioner

Vs.

1. The District Revenue Officer,
Tenkasi District,
Tenkasi-627811.

2. The Revenue Divisional Officer,
Tenkasi Revenue Division,
Tenkasi, Tenkasi District.

3. P.Jayasankar

... Respondents

Prayer : This Writ Petition filed under Article 226 of Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings Ka1/327/2020 dated 22.09.2021 passed by the first respondent, as not valid and



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void, under law and thereby quash the same as illegal and consequently direct the first respondent to pass orders to retain the petitioner's name in Patta No.2191 in respect of the Survey No.413/2 in Keelakalanganl Village, Veerakeralampudur Taluk, Tenkasi District.

For Petitioner : Mr.K.Joseph Xavier Raj
for Mr.P.Krishnasamy

For R1 & R2 : Mr.V.Om Prakash
Government Advocate

For R3 : Mr.D.Srinivasa Raghavan

ORDER

The Writ Petition is directed against the order dated 22.09.2021 passed by the first respondent and for directions to the first respondent to retain the writ petitioner's name in Patta No.2191 in respect of the property in Survey No.413/2 of Keelakalanganl Village, Veerakeralampudur Taluk, Tenkasi District.

2. The case of the writ petitioner is that the landed properties in Survey Nos.413/2 and 413/3 in Keelakalanganl Village, Veerakeralampudur Taluk originally belonged to one Maitheen Marakkayar, that the said Maitheen Marakkayar sold out the said lands to one Kumara Reddiyar of



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Navaneethakrishnapuram Village vide sale deed dated 05.12.1938 on the file of the Sub Registrar Office, Surandai, that the said Kumara Reddiyar had a valid title and was doing cultivation and was in peaceful possession and enjoyment of the said lands till his life time, that the land tax demand notice for 1355 Fasalie was served in the name of the said Kumara Reddiyar by Uthumalai Jamin Mahaa Sri N.H.M. Pandianavargal in Tenkasi Taluk, that after the demise of the said Kumara Reddiyar, his son Koolappa Reddiyar had inherited the said properties and was doing cultivation till his life time, that the said Koolappa Reddiyar was holding a valid Patta No.1452 dated 13.07.1964 given by the Tahsildar of Veerakeralampudur for the said survey numbers, that thereafter the landed properties stood with Patta No.227 in the name of the said Koolappa Reddiyar, that after his demise, the said properties were inherited by his three sons, namely, Krishnasamy Reddiyar, Koolaiappan and Vellaisamy, that the writ petitioner has purchased the said lands in Survey Nos.413/2 and 413/3 in Patta No.227 from the above said legal heirs of the said Koolappa Reddiyar vide document Nos.1464/2011 and 1647/2011 dated 25.08.2011 on the file of the Sub Registrar Office, Uthumalai and that the writ petitioner was given new patta bearing No.2191 and he started



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cultivation by planting mango, lemon, amla, coconut and other plants and also dug two bore wells and he has been paying land tax to the Revenue Department.

3. It is the further case of the writ petitioner that the writ petitioner came to know that father of the third respondent one M.Ponnusamy Nadar of Keelakalanganal Village, who was a notorious rowdy and land grabber in the said locality got a registered fake sale deed in respect of the land in Survey No.413/2 and executed a fake sale deed along with his brothers Muthusamy Nadar and Murugaiah Nadar in favour of one Ayyammal vide document No.528/2006 dated 22.02.2006 on the file of the Sub Registrar Office, Uthumalai, as if, the property was owned by them, that the third respondent's father along with his brothers had also executed another fake sale deed in respect of the land in Survey No.413/3 vide document No. 250/2011 dated 17.02.2011 on the file of the same Sub Registrar Office, that the third respondent's father had also created fake partition deed in respect of the land in Survey No.413/2 vide document No.251/2011 dated 17.02.2011, as if, the property was their own family property, that the writ petitioner, after coming to know about the fraudulent documents, sent



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several representations to the District Registrar, Tenkasi to cancel the above mentioned three fake and fraudulent documents, that the District Registrar, Tenkasi has sent a letter dated 09.06.2021 stating that the sale deed registered by the third respondent's father in respect of the land in Survey No.413/2 has already been cancelled vide cancellation document No.2140/2011 dated 17.02.2011, that the third respondent's father, after fully knowing that he had no valid documents to prove his title over the said properties and in order to grab the lands of the writ petitioner, which has been in possession and enjoyment for the past 83 years with valid title by his vendor and thereafter by the writ petitioner, approached the second respondent to remove the writ petitioner's name in Survey No.413/2 and insert his name in the same place, that the second respondent, without doing any adjudication, has just forwarded the matter to the first respondent, that the first respondent, without considering the documents produced by the writ petitioner and also his claim that the property in dispute has never been in possession and enjoyment of the third respondent or his ancestors from the year 1938, for the reasons best known to her, has passed orders against the writ petitioner for deleting the writ petitioner's name from Patta No.2191 in respect of the land in Survey No.



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413/2 and inserted the name of the third respondent and that therefore the writ petitioner was constrained to approach this Court by invoking Article 226 of the Constitution of India.

4. The third respondent has filed a counter affidavit disputing the case of the writ petitioner and further stated that the property in question was originally belonging to the third respondent's great grandfather P.Ponnusamy Nadar, that Survey Settlement A Register of the year 1961 stood in the name of third respondent's great grandfather P.Ponnusamy Nadar and Patta No.507 was also issued in his name, that after his death, his son Mookkaiya Nadar's name was entered and he was paying tax upto the year 1986, that after his death, the third respondent's father and his two brothers, namely, Muthusamy Nadar and Murugaiah Nadar partitioned the property vide partition deed dated 17.02.2011, that the writ petitioner's vendor, who had taken advantage of the mistake crept in during Updating Registry Scheme (UDR Scheme), had created fake documents and thereby sold the property to the writ petitioner by knowing fully well that he has no right over the property in dispute, that the said Krishnasamy Reddiyar-one of the legal heir of Koolappa Reddiyar filed a suit in O.S.No.807 of



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2007 on the file of the District Munsif Court, Tenkasi seeking declaration of their right over the property in dispute against the third respondent's father and some others, that the said suit was dismissed and even after having failed in the suit proceedings, had chosen to execute a sale deed in favour of the writ petitioner and as such, such a sale would not confer any right on the writ petitioner to make the present claim against the third respondent, that the writ petitioner is not a *bona fide* purchaser, that the writ petitioner has also filed a suit in O.S.No.185 of 2012 on the file of the Additional District Munsif Court, Tenkasi against the third respondent's father and one Ayyammal, that the said suit was also dismissed for default on 04.04.2018, that the first respondent, after elaborate consideration, has passed the impugned order dated 22.09.2021, which needs no interference from this Court and that therefore the writ petition is liable to be dismissed.

5. The first respondent has filed a counter affidavit stating that the third respondent's father has filed a petition before the first respondent to rectify the defects made in Updating Registry Scheme (UDR Scheme) in respect of the land in Survey No.413/2 measuring an extent of 0.31.00



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hectares stood in the name of P.Ponnusamy Nadar in Patta No.507 in the Settlement A Register of Keelakalangal Village, Veerakeralampudur Taluk, that during the Updating Registry Scheme (UDR Scheme), the land in Survey No.413/2 stands registered in the name of Koolappa Reddiyar in Patta No.227 vide proceedings of V.K.Pudur Tahsildar in RTR.No.498 of 2012 and the name of the writ petitioner was included as a joint pattadar, that the legal heirs of Koolappa Reddiyar, namely, Krishnasamy Reddiyar, Koolaiappan and Vellaisamy sold the lands in Survey Nos.413/2 and 413/3 to the writ petitioner vide two sale deeds dated 25.08.2011 and accordingly, the writ petitioner's name was included in joint Patta No.2191 of Keelakalangal Village in respect of the said lands, that the Revenue Divisional Officer, Tenkasi has submitted a report dated 10.10.2018 stating that the land in Survey No.413/2 measuring an extent of 0.31.00 hectares was in the possession of Ponnusamy Nadar Vagaiyara, that the name of Koolappa Reddiyar was erroneously shown as owner of the land in Survey No.413/2 in the Updating Registry (UDR) and subsequently the said land was sold to the writ petitioner vide sale deed dated 25.08.2011, that thereafter the District Revenue Officer of the then Composite Tirunelveli District conducted enquiry on 04.06.2019, 11.06.2019,



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02.07.2019, 16.07.2019 and 06.08.2019 and after the formation of the newly formed Tenkasi District, enquiry was conducted on 11.03.2020 and after the promulgation of corona lockdown, enquiry was resumed only on 23.10.2020, that the first respondent, after careful consideration of the documentary evidence on record and subjective satisfaction of the records, has rectified the erroneous entries crept in the Updating Registry (UDR) Patta No.2191 by including the name of P.Ponnusamy Nadar and also by deleting the names of Koolappa Reddiyar and the writ petitioner vide proceedings dated 22.09.2021 and that therefore the order of the first respondent is just and *bona fide* and the same cannot be found fault with.

6. It is not in dispute that the writ petitioner has been claiming title over the land in Survey No.413/2 of Keelakalanganal Village, Veerakeralampudur Taluk, Tenkasi District through the legal heirs of Koolappa Reddiyar, who in turn was claiming through his father Kumara Reddiyar, who in turn claimed title through his purchase from one Maitheen Marakkayar vide sale deed dated 05.12.1938 bearing document No.507/1938, whereas, the third respondent has claimed title through his great grandfather P.Ponnusamy Nadar as the Survey Settlement A Register



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of the year 1961 stood in the name of the said P.Ponnusamy Nadar and the issuance of patta in Patta No.507.

7. The learned counsel appearing for the writ petitioner would submit that the Writ Court cannot decide the title to the property in dispute and relied on the decision of a learned Judge of this Court in ***W.P. (MD)No.11635 of 2010 dated 21.04.2022***, wherein, it has been held that in a petition filed under Article 226 of the Constitution of India, 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 and the relevant passages are extracted hereunder:-

“18. This Court under Article 226 of the Constitution of India, cannot go into the title of the parties and the same can be decided only by adducing evidence before the appropriate Civil Court and any opinion by this Court on the documents relied on by the parties would prejudice the interest of the parties before the Civil Court.

19. As stated above, the Revenue authorities are not competent to issue a patta in favour of the parties, where there is a dispute among two persons on the title of the property.....”



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8. He has also relied on the judgment of the Hon'ble Supreme Court in the case of *M/s.Edelweiss Asset Construction Company Limited Vs. R.Perumalswamy and others* reported in *AIR 2020 SC 3688*, wherein, the Hon'ble Apex Court, after referring to the various provisions of the Tamil Nadu Patta Pass Book Act 1983 and the Tamil Nadu Patta Pass Book Rules 1987, has specifically held that under the Tamil Nadu Patta Pass Book Act 1983 and the Tamil Nadu Patta Pass Book Rules 1987, the Tahsildar is not empowered to adjudicate upon a 'title dispute' and a combined reading of Section 14 and Rule 4(4) indicates that where there exists a dispute with respect to ownership of a land between parties with respect to a patta entry, the correct procedure to be adopted is to approach a civil court having competent jurisdiction and the entry records will be updated on the basis of the decree of the civil court upon adjudication. There is absolutely no dispute about the legal position above referred.

9. As rightly contended by the learned counsel appearing for the writ petitioner, the revenue authorities are having no power or jurisdiction to go into the title to the property in dispute and on coming to know that there existed title dispute between the parties, the only course available to



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them is to direct the parties to approach the competent civil Court and to get the title to the property decided and then to approach the revenue authorities for making entries in the revenue records. In the case on hand, as already pointed out, the said Krishnasamy Reddiyar-one of the sons of Koolappa Reddiyar has filed a suit in O.S.No.807 of 2007 against the third respondent's father M.Ponnusamy Nadar and his two brothers, namely, Muthusamy Nadar and Murugaiah Nadar and others to declare that the lands in Survey Nos.413/2 and 413/3 in Keelakalanganal Village are belonging to the plaintiff and for consequential permanent injunction restraining the defendants 1 to 4 from interfering with the peaceful possession and enjoyment of the plaintiff over the suit properties.

10. As rightly pointed out by the learned counsel appearing for the third respondent, in the plaint in O.S.No.807 of 2007, it has been stated that the property was originally belonging to plaintiff's father Koolappa Reddiyar ancestrally and he died intestate leaving behind his sons- Krishnasamy Reddiyar (plaintiff) and Koolaiappan and Vellaisamy (defendants 5 and 6) and two daughters-Chennammal and Nilavaiammal (defendants 7 and 8) and that there was an oral partition between the



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plaintiff and his brothers and sisters and in that partition, the said two items of properties were allotted to the share of the plaintiff Krishnasamy Reddiyar. But in trial, the plaintiff has produced the sale deed dated 05.12.1938 in favour of the plaintiff's grandfather Kumara Reddiyar which came to be executed by one Maitheen Marakkayar.

11. As rightly contended by the learned counsel appearing for the third respondent, the learned trial Judge has rightly observed that the case relating to the sale deed dated 05.12.1938 and the alleged purchase by the plaintiff's grandfather Kumara Reddiyar from Maitheen Marakkayar were not at all pleaded in their plaint and that the plaintiff has failed to show that the properties shown in the sale deed dated 05.12.1938 and the properties now in dispute are one and same. Moreover, as rightly pointed out by the learned counsel appearing for the third respondent, the plaintiff before the trial Court has given evidence that his grandfather Kumara Reddiyar and his brother Chinnappa Reddiyar had jointly purchased the property and that the said aspect was also not pleaded. But as already pointed out, the plaintiff has claimed the relief of declaration on the basis of the revenue records and pending trial, he has produced the alleged title



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deed dated 05.12.1938 and that though he has admitted that his grandfather Kumara Reddiyar and his brother Chinnappa Reddiyar had jointly purchased the property, he has not assigned any reasons as to how the plaintiff's father alone derived the properties in dispute. No doubt, the trial Court has observed that though the defendants 1 to 4 have produced settlement register and other records to show that they had proved their possessory title in respect of the first item of the properties i.e., Survey No. 413/2, they have not produced any iota of evidence or materials to show that the second item of the properties i.e., Survey No.413/3 was owned and possessed by them. After elaborate consideration, the trial Court, by observing that since the plaintiff has alone laid the suit claiming reliefs of declaration and permanent injunction and since the plaintiff has not proved his title and possession over the two items of properties, has come to a conclusion that the plaintiff is not entitled to get any of the reliefs.

12. No doubt, the trial Court has also observed as follows:-

“12. ... Taking into consideration of all those facts and circumstances involved in this case this court come to a conclusion that both the parties are not entitled for any other reliefs including the costs.



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In the result, this suit is dismissed....”

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13. As rightly contended by the learned counsel appearing for the third respondent, the defendants 1 to 4 in the suit have not laid any counter claim nor asked any relief in their favour and that since the plaintiff has failed to prove his title and possession over the two items of the properties, the suit was ordered to be dismissed and that since the trial Court has observed that both the parties are not entitled to get any of the reliefs, that by itself cannot be taken that the defendants 1 to 4 have also no title and possession over the property in dispute. No doubt, as already pointed out, though the trial Court has observed that the defendants 1 to 4 have produced necessary records to prove their possessory title in respect of the first item, they have not produced any iota of materials to prove their title and possession over the second item of the properties. Considering the above, as rightly contended by the learned Government Advocate appearing for the respondents 1 and 2 and the learned counsel appearing for the third respondent, the competent civil Court has already decided that the plaintiff Krishnasamy Reddiyar is not entitled to get the reliefs of declaration and injunction in favour of the lands in Survey Nos. 413/2 and 413/3 of Keelakalanganal Village. Admittedly, the plaintiff has not



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preferred any appeal and as such, the judgment and decree passed in O.S.No.807 of 2007 had attained finality.

14. It is not in dispute that the writ petitioner, after the alleged purchase from the sons of Koolappa Reddiyar, has filed a suit in O.S.No. 185 of 2012 on the file of the Additional District Munsif Court, Tenkasi against the third respondent's father Ponnusamy Nadar and Ayyammal claiming permanent injunction restraining the defendants from in any manner interfering with the plaintiff's peaceful possession and enjoyment of the suit property. It is also not in dispute that despite several opportunities, the writ petitioner/plaintiff has not taken necessary steps to prosecute the suit and hence, the suit was ordered to be dismissed for default vide judgment and decree dated 04.04.2017.

15. It is not the case of the writ petitioner that he has taken necessary steps to restore the suit in O.S.No.185 of 2012, which was dismissed for default. It is not in dispute that the writ petitioner has again filed another suit in O.S.No.601 of 2021 on the file of the Principal Subordinate Court, Tenkasi against the third respondent and three others



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claiming permanent injunction restraining the defendants and their men from any manner interfering with the plaintiff's peaceful possession and enjoyment of the suit property.

16. As rightly contended by the learned counsel appearing for the third respondent, the writ petitioner in an attempt to escape from technical objections has purposely added four more items of properties along with properties in dispute i.e., Survey Nos.413/2 and 413/3 which are totally unconnected with the defendants therein which includes the third respondent. The third respondent has filed a written statement in O.S.No. 601 of 2021 stating that the second suit filed by the writ petitioner was barred by doctrine of *res judicata* as contemplated under Section 11 C.P.C. and that he has no connection whatever with the items 3 to 6 of the properties and as such, the suit is liable to be dismissed with costs.

17. It is the specific case of the respondents 1 and 2 that in the A Register, prior to the Updating Registry Scheme (UDR Scheme) the property in dispute in Survey No.413/2 stands in the name of P.Ponnusamy Nadar in Patta No.507 and during the Updating Registry Scheme (UDR



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Scheme), patta came to be issued in favour of Koolappa Reddiyar. The first respondent, after taking the report from the second respondent, Village Administrative Officer, Keelakalangal Village, Tahsildar of Veerakeralampudur Taluk and taking note of the revenue records prior to the Updating Registry Scheme (UDR Scheme) and subsequent to the Updating Registry Scheme (UDR Scheme) and also the result of the civil Court proceedings, has observed;

□.... ஆக இந்நேர்வில் தாவா புலச்சொத்து நீதிமன்ற தீர்ப்பாணையில் கிரையதாரர்களுக்கோ, கிரையம் கொடுத்த நபர்களுக்கோ உரிமையில்லையென துலங்க வருகிறது.

.....

அவ்வாறாயின் ரீசர்வே ரீசெட்டில்மெண்ட் "அ" பதிவேட்டு ஆவணத்தில் பெ.பொன்னுசாமி நாடார் என்பவர் அனுபவம் செய்து, பின்னர் மகன் முக்கையா நாடார் என்பவர் அனுபவம் செய்து வந்து, பின்னர் மனுதாரர் பொன்னுசாமி நாடார் என்பவர் அனுபவம் செய்து வந்துள்ளமைக்கு "அ" பதிவேட்டு நகல், நிலவரி ரசீது நகல், தாக்கல் செய்துள்ளதின் மூலம் புலனாகிறது. அவ்வாறாயின் ரீசெட்டில்மெண்ட் ஆவணத்தில் இடம் பெற்ற பெயர், UDR பணியின்போது வாரிசுகளை துலக்கி தாக்கல் செய்திருக்க வேண்டும். அல்லது அனுபவம் செய்து வந்த முக்கையா நாடார் பெயரில் தாக்கல் செய்திருக்க வேண்டும். அவ்வாறில்லாமல் எவ்வித தொடர்புமில்லாத



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கூழையப்ப ரெட்டியார் பெயர் UDR பணியின் போது தவறாக தாக்கல் செய்யப்பட்டிருக்கிறது என்று முடிவுக்கு வரவேண்டியதுள்ளது. மேலும் இதற்கு வலு சேர்க்கும் விதமாக நீதிமன்றத்தில் தாக்கல் செய்யப்பட்ட வழக்குகளும் எதிர்மறையாக தீர்ப்பளித்து ஆணையிடப்பட்டுள்ளது.

.....

பிரஸ்தாப நிலம் கூழையப்ப ரெட்டியாருக்குப் பாத்தியப்பட்டது என்பதை நிரூபிக்கத்தக்க நில உடமைப் பதிவு மேம்பாட்டுத் திட்டத்திற்கு முந்தைய ஆவணங்கள் ஏதும் மனுதாரர் ஆர்.கலைராஜன் என்பவரால் தாக்கல் செய்யப்படவில்லை.

பிரஸ்தாப நிலம் பொன்னுச்சாமி நாடார் வகையறாக்களால் தற்போதைய பட்டாதாரர் அல்லது மனுதாரருக்கு கிரையம் செய்து கொடுக்கப்பட்டுள்ளது என்பதை நிரூபிக்கத்தக்க ஆவணங்கள் ஏதும் வில்லங்கச் சான்றினை பரிசீலனை செய்ததில் துலங்கவில்லை.

பிரஸ்தாப நிலம் 2011-ம் ஆண்டில் தான் தற்போதைய பட்டா எண்.2191-ல் கண்ட கூழையப்பரெட்டியார் வகையறாக்களால் மனுதாரருக்கு கிரையம் செய்து கொடுக்கப்பட்டுள்ளது. மேற்படி நபரின் அனுபவத்தினை நிரூபிக்கத்தக்க ஆவணங்கள் சமர்ப்பிக்கவில்லை. ஆனால் அதற்கு முன்னர் எதிர் மனுதாரர் பொன்னுச்சாமி நாடார் தகப்பனார் பொ.மூக்கையா



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நாடார் என்பரால் செலுத்தப்பட்ட தீர்வை ரசீதுகள்
சமர்ப்பிக்கப்பட்டுள்ளன.

எனவே, வீ.கே.புதூர் வட்டம், கீழ்க்கலங்கல் கிராமம்
பட்டா எண்.2191-ல் கண்ட புல எண்.413/2-ஐ மேற்படி
பட்டாவிலிருந்து நீக்கி பெ.பொன்னுச்சாமி நாடார் பெயரில்
தனியாக தாக்கல் செய்தும், எதிர் மனுதாரர்
திரு.கலைராஜன் என்பவரது கோரிக்கையினை நிராகரித்தும்
உத்தரவிடப்படுகிறது.□

18. As rightly contended by the learned Government Advocate appearing for the respondents 1 and 2 and the learned counsel appearing for the third respondent, the judgment and decree passed in O.S.No.807 of 2007 filed by Krishnasamy Reddiyar-one of the sons of Koolappa Reddiyar is binding on the writ petitioner as he has purchased the property from Krishnasamy Reddiyar and his brothers.

19. As already pointed out, the writ petitioner's suit for bare injunction came to be dismissed for default and his second suit for permanent injunction is now pending but also with different properties.

20. On considering the entire facts and circumstances and also



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taking note of the result of the civil proceedings, the impugned order deleting the writ petitioner's name in Patta No.2191 of Keelakalangal Village and for issuance of separate patta in favour of P.Ponnusamy Nadar, is perfectly in order and the same cannot be found fault with. Hence, this Court concludes that the writ petition is devoid of merits and the same is liable to be dismissed.

21. In the result, the Writ Petition is dismissed. Consequently, connected Miscellaneous Petitions are closed. No costs.

02.08.2024

NCC :yes/No
Index :yes/No
Internet:yes/No
csm

To

1. The District Revenue Officer,
Tenkasi District,
Tenkasi-627811.
2. The Revenue Divisional Officer,
Tenkasi Revenue Division,
Tenkasi, Tenkasi District.



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K.MURALI SHANKAR,J.

csn

Pre-Delivery Order made in

W.P.(MD)No.19662 of 2021

and

W.M.P.(MD)Nos.16333 and 16335 of 2021

Dated : 02.08.2024