



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.07.2016

CORAM :

THE HONOURABLE MR.JUSTICE NOOTY.RAMAMOHANA RAO
and
THE HONOURABLE MR.JUSTICE S.S.SUNDAR

Writ Appeal (MD) Nos.1080 and 1081 of 2016
and C.M.P.(MD) Nos.6522 and 6523 of 2016

Narayanasamy ...Appellant/7th Respondent
in both petitions
-Vs-.

1.N.Tamilselvan ...1st Respondent/Petitioner
in both petitions

2.The Revenue Divisional Officer,
Sri Rangam Division, Vannankovil,
Trichy-Dindigul Highway,
Trichy District.

3.The Tahsildar,
Manapparai,
Trichy District.

4.The Zonal Deputy Tahsildar,
Manapparai,
Trichy District.

5.Dhanalakshmi

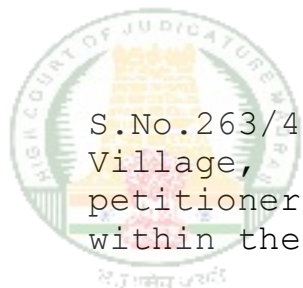
6.The Village Administrative Officer,
Pannapatti Melpaagam,
Manapparai Taluk,
Trichy District.

7.Balamurugan ...Respondents 2 to 7/Respondents
1 to 6 in both petitions

Appeals filed under Clause 15 of Letters Patent praying to
set aside the orders dated 19.05.2016 made in W.P(MD)Nos.9383 and
9384 of 2016.

Prayer in WP(MD). 9383/ 2016 :

Writ Petition is filed under Article 226 of the
Constitution of India, praying this Court to issue a Writ of
Certiorarified Mandamus calling for the records pertaining to the
impugned memo in File No.2016/0103/15/008286, dated 11.03.2016
issued by the 3rd respondent quash the same and consequently
direct the 3rd respondent to transfer the Patta No.531 for



S.No.263/4 measuring 0.16.50 Hectares of Pannappatti Melpaagam Village, Manapparai, Trichy District in the names of the petitioner, his mother Thangamani and his brother Gunasekaran within the time frame fixed by this Honble court.

Prayer in WP(MD). 9384/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned memo in file No.2016/0103/15/008283, dated 11.03.2016 issued by the 3rd respondent quash the same and consequently direct the 3rd respondent to transfer the Patta No.1233 for S.No.263/3B measuring 1.10.50 Hectares of Pannappatti Melapagam Village, Manapparai Taluk, Trichy District in the names of the petitioner, his mother Thangamani and his brother Gunasekaran within the time frame fixed by this Honble Court.

For Appellant : Mr.N.Balakrishnan
For Respondents 2 to 7: Mr.M.Alagathevan
Special Government Pleader.

COMMON JUDGMENT

(Judgment of the Court was delivered
by NOOTY.RAMAMOHANA RAO,J)

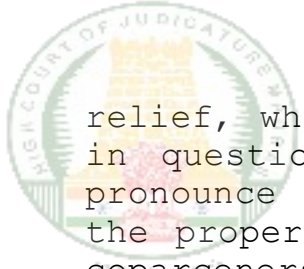
These writ appeals have been preferred by the 7th respondent in W.P(MD)Nos.9383 and 9384 of 2016, which were disposed of by the learned Single Judge at the admission stage itself.

2.The case of the writ petitioner was that after the death of his father, he has submitted a representation on 4th March, 2016 to the Tahsildar, Manapparai, Trichy District, to grant transfer of patta standing in the name of his father Nallusamy, who has since died and hence, patta be granted in his (writ petitioner's) favour.

3.The objection in the present writ appeals is that the property in question is not the exclusive property owned by Nallusamy and on the other hand it is a property owned by the joint family, of which, Nallusamy is one member, while the appellant herein is another member and hence, even the appellant has a substantial stake in that property and to that extent of his entitlement, he, therefore, objected to grant of any patta in favour of the writ petitioner.

4.As to whether the immovable property in question is or not a joint family property, cannot be adjudicated or decided satisfactorily in a writ proceedings. That can be done only by a competent Court of civil jurisdiction. In fact, there is already a civil suit filed by the very same appellant seeking partition of the immovable property, over which, patta was granted in favour of Nallusamy, who is no more now.

5.In the present case, the objection by the appellant is that the original writ petitioner could not have been granted the



relief, which this Court has granted, when the immovable property in question is in dispute and that the civil Court is yet to pronounce its opinion with regard to the nature of the rights in the property and as to whether this can be partitioned among the coparceners of the family or not.

6.The only issue which the writ petitioner sought for as stated above is grant of mutation of patta in his name, for which, his father had a patta and his father died. Therefore, the Tahsildar can justifiably confine the scrutiny of enquiry as to whether the applicant before him is by a genuine legal representative of the deceased patta holder or not. The Tahsildar cannot enter upon the adjudication process as to whether the land for which patta was granted earlier in favour of the deceased Nallusamy is a joint family property or not. That was the question which falls exclusively within the domain of the civil Court.

7.Since the appellant herein has already approached the civil Court seeking partition of the petition scheduled property and for allotment of one such share to him, as and when the suit gets decreed and as and when a particular share in the immovable property gets allocated to him, he is always entitled to grant of patta to that extent of land in his favour.

8.Therefore, we see no justifiable reason to entertain these writ appeals and these are, accordingly, dismissed at the admission stage. No costs. Consequently, connected Miscellaneous Petitions are also dismissed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS)

To

1.The Revenue Divisional Officer, Sri Rangam Division,
Vannankovil, Trichy-Dindigul Highway, Trichy District.

2.The Tahsildar, Manapparai, Trichy District.

3.The Zonal Deputy Tahsildar, Manapparai, Trichy District.

4.The Village Administrative Officer,
Pannapatti Melpaagam, Manapparai Taluk,
Trichy District.

+2cc to M/s.N.Balakrishnan, Advocate in SR.34714 & 34715

+1cc to the Special Government Pleader, in SR.34906

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