



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.07.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.VENUGOPAL

W.P. (MD) No.8763 of 2016

WEB COPY

S.Muniyandi

... Petitioner

Vs.

1. The Tahsildar,
Kariyapatti Taluk,
Kariyapatti,
Virudhunagar District.

2. Selvaraj

3. Mariyappan

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the first respondent to grant Patta for petitioner's property bearing Old Survey/Paimash No.1189, now known as Survey No.127/6, an extent of 65.45 cents situated in Sevalpatti Village, Karyapatti Taluk, Aruppukottai Sub Division of Virudhunagar District by considering the petitioner's representation dated 29.03.2016 within the period stipulated by this Court.

For Petitioner : Mr.A.Haja Mohideen

For R1 : Mr.V.Muruganandam
Additional Govt. Pleader

For R2 & R3 : Mr.B.Chakravarthy

O R D E R

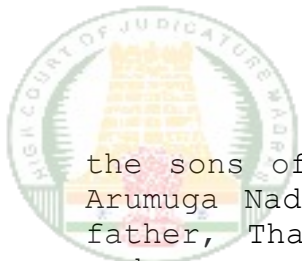
Heard both sides.

2. By consent, the main Writ Petition itself is taken up for final disposal.

3. No counter is filed on behalf of the Respondents.

4. According to the Petitioner, his grand father Arumuga Nadar, S/o.Valaguruva Nadar, had acquired a property bearing Old Survey/Paimash No.1189, now known as Survey No.127/6, measuring an extent of 65.45 cents situated in Sevalpatti Village, Karyapatti Taluk, Aruppukottai Sub Division, Virudhunagar District, by means of purchase on 02.05.1917 (vide Registration No.1027/1917) and since then he was in possession and occupation of the said property.

5. It comes to be known that the said Arumuga Nadar has three sons viz., (i) Shanmugavel Nadar, (ii) Thangayya Nadar and (iii) M.Raja. The Petitioner is the only son of Shanmugavel Nadar. As a matter of fact, M.Raja and Selvaraj are the sons of said Masanam and that the Second Respondent Selvaraj and Third Respondent Mariyappan are



the sons of said Thangayya Nadar. Indeed, the Petitioner's grandfather Arumuga Nadar expired 60 years ago intestate and after his demise, his father, Thangayya Nadar and Masanam were in exclusive use, occupation and possession of the said property and their family was a joint family property. As such, Patta No.168 in respect of the property was issued in the name of Thangayya Nadar and they have not effected any partition in respect of the property and the sons of the said Shanmuga Nadar died one by one.

6. The plea of the Petitioner is that he is entitled to 1/3rd share. M.Raja and M.Selvaraj are also entitled to 1/3rd share and Second and Third Respondents are entitled to 1/3rd share respectively in respect of the said property. In fact, there are no other legal-heirs in respect of the property. In reality, the said property is in their occupation, possession and enjoyment. The said Selvaraj and Mariyappan have no exclusive right, interest and title over the said property.

7. The grievance of the Petitioner is that he and sons of Masanam viz., M.Raja and M.Selvaraj submitted a detailed representation dated 29.03.2016 to the First Respondent / Tahsildar, Kariyapatti Taluk, Kariyapatti, Virudhunagar District praying for issuance of Patta in the joint name of himself, M.Raja, M.Selvaraj and the Second and Third Respondents. In this regard, they had enclosed all necessary documents in respect of the said property mentioning that they are the legal-heirs of their grandfather and as on date, they are in exclusive use, occupation and possession of the property.

8. The version projected on behalf of the Petitioner is that the First Respondent is not taking any action in issuing Patta in their name, in spite of furnishing of all necessary documents to substantiate their rights in the property. Indeed, the representation of the Petitioner dated 29.03.2016 addressed to the First Respondent/Tahsildar, Kariyapatti Taluk, Kariyapatti, Virudhunagar District is pending. A perusal of the petition dated 29.03.2016 of the Petitioner and two others (M.Raja and M.Selvaraj) addressed to the First Respondent indicates that there are two Respondents, who are Selvaraj (Second Respondent) and Mariyappan (Third Respondent) in the Writ Petition. A perusal of the contents of the representation of the Petitioner and two others dated 29.03.2016 addressed to the First Respondent latently and patently indicates that the Petitioners therein had prayed for issuance of Patta in the name of five persons (Petitioners and Respondents as mentioned in the representation).

9. Considering the fact that the Petitioner along with two others had made a representation dated 29.03.2016, showing the Second and Third Respondents as Respondents to the representation, wherein an issuance of joint Patta in the name of five persons was sought for, at this stage, this Court, without expressing any opinion on the merits of the matter, and also not delving deep into the subject matter in issue, simpliciter, directs the First Respondent to look into the representation of the Petitioner dated 29.03.2016, within a period of ten days from the date of receipt of a copy of this order. Thereafter, the First Respondent shall dispose of the said representation of the Petitioner along with two others within a period of four weeks, by passing a speaking order,



on merits especially, outlining the process of reasoning, in a qualitative and quantitative manner. The First Respondent shall provide notice to the Petitioner, Second Respondent, Third Respondent and others interested in the subject matter in issue if any. The Petitioner is directed to render his assistance and co-operation to the First Respondent so as to enable him to dispose of the representation dated 29.03.2016 in a fair, free, unbiased and dispassionate manner.

10. With the aforesaid observation and direction, the Writ Petition stands disposed of. No costs.

Sd/
Assistant Registrar (AS)

/TRUE COPY/

Sub Assistant Registrar

To

The Tahsildar,
Kariyapatti Taluk,
Kariyapatti,
Virudhunagar District.

+1cc to Special Government Pleader in SR.No.35793
+1cc to M/S.B.Chakkaravarthi, Advocate in SR.No.35881
+1cc to M/S.A.Haja Mohideen, Advocate in SR.No.35510

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