



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 04.10.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

W.P. (MD) .No.6309 of 2011

and

M.P (MD) No.2 of 2011

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1.AL.Sahabudeen
2.AL.Anwar Basha
3.AL.Najukdeen
4.AL.Asrafdeen
5.AL.Kursheed Begum
6.AL.Maliga Begum
7.AL.Farukdeen
(rep. By their Power Agent,
AL.Thajudeen)

.. Petitioners

vs.

1.The District Collector,
Collector's Office,
Cantonment,
Trichy-1,
Trichy District.

2.The Revenue Divisional Officer,
Collector's Office,
Cantonment,
Trichy-1,
Trichy District.

3.The Tahsildar,
Srirangam,
Trichy District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 2nd Respondent to issue joint Patta in favour of the Petitioners for the under mentioned Survey Nos.1) 104/1 for an extent of 0.09.5 Ares, 104/2 for an extent of 0.20.0, 104/3 for an extent of 0.11.5 Ares, 104/4 for an extent of 0.18.5 Ares, 104/5 for an extent of 0.30.0 Ares, 104/6 for an extent of 0.12.0 Ares, 104/7 for an extent of 0.71.5, 2) Survey No.267 for an extent of 1.42.5 Ares, 3) Survey No.151/4, 5 for an extent of 0.35.5 Ares, 151/1, 2A, 3 for an extent of 0.37.0, 4) 173/1C-2 for an extent of 0.21.0, 5) 174/1A for an extent of 0.23.5 Ares, 6) 175/2A for an extent of 0.02.0 Ares, 175/2-D3 for an extent of 0.54.0, 175/2E for an extent of 0.13.0, 175/2F for an extent of 0.21.0, 175/2H for an extent of 1.34.0 Ares, where the properties are situated at Pirattiyoor, Kothamangalam Village, Trichy Taluk, Trichy District and also by canceling the Pattas illegally issued to unanimous person.



For Petitioners : Mr.N.R.Murugesan

For Respondents : Mr.Aayiram K.Selvakumar
Government Advocate

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ORDER

The petitioners have filed this writ petition for the issuance of Writ of Mandamus, directing the 2nd respondent to issue joint Patta in favour of the petitioners for the under mentioned Survey Nos.1) 104/1 for an extent of 0.09.5 Ares, 104/2 for an extent of 0.20.0, 104/3 for an extent of 0.11.5 Ares, 104/4 for an extent of 0.18.5 Ares, 104/5 for an extent of 0.30.0 Ares, 104/6 for an extent of 0.12.0 Ares, 104/7 for an extent of 0.71.5, 2) Survey No.267 for an extent of 1.42.5 Ares, 3) Survey No.151/4, 5 for an extent of 0.35.5 Ares, 151/1, 2A, 3 for an extent of 0.37.0, 4) 173/1C-2 for an extent of 0.21.0, 5) 174/1A for an extent of 0.23.5 Ares, 6) 175/2A for an extent of 0.02.0 Ares, 175/2-D3 for an extent of 0.54.0, 175/2E for an extent of 0.13.0, 175/2F for an extent of 0.21.0, 175/2H for an extent of 1.34.0 Ares, where the properties are situated at Pirattiyoor, Kothamangalam Village, Trichy Taluk, Trichy District and also by canceling the Pattas illegally issued to unanimous person.

2.The case of the petitioners is that the petitioner 1,2,3,4 and 7 are the sons and the petitioners 5 & 6 are the daughters of late Abdul Latheef. The properties mentioned in the writ petition belong to the father of the writ petitioners and he was in possession and enjoyment over the property. The Patta and the Tax receipt of the petition mentioned properties stood in the name of their father.

3.The above said properties were inherited by their father Abdul Latheef from his father namely Kadar Moideen i.e., the petitioner's grandfather. Excluding a smaller extent of 2.94 cents in S.F.No.175/2 which was sold by the petitioner's father, the remaining properties were held by their father. However, the 3rd respondent playing fraud has issued several Pattas to several unanimous persons without verifying the title or records in respect of the writ prayer mentioned properties. Therefore, an application was made before the 1st & 2nd respondent so as to take appropriate action against the 3rd respondent and thereby issue fresh Patta in the name of the petitioners. However, the application came to be forwarded to the 3rd respondent itself and the 3rd respondent, vide his proceedings dated 23.01.2011 rejected the petitioners claim, by directing the petitioners to work out their claims before the Civil Court.



4.I heard Mr.N.R.Murugesan, learned counsel appearing for the petitioners and Mr.Aayiram K.Selvakumar, learned Government Advocate appearing for the respondents.

5.On bare perusal of the order of the 3rd Respondent dated 23.01.2011 rejecting the petitioners' claim, it is found to be a single line order, wherein the petitioners are directed to approach the Civil Court by holding that the application is being made belatedly after some years, besides with one another reason that the Patta as on date stand on some other 3rd persons.

6.It is obvious that the 3rd respondent has not even discussed the Survey numbers or its extents. It is very well ascertained that the properties are situated in several survey numbers, measuring different extents and the Pattas too stand in the name of some other persons. However, there is no effort taken by the 3rd respondent to look into the revenue records. The order of the 3rd respondent is a classic example of a non-speaking order came to be passed without application of mind and without appreciation of revenue records.

7.When the specific claim of the petitioner is that the Patta is being fraudulently issued by the 3rd respondent, the 3rd respondent is not supposed to pass such an order dated 23.01.2011 without taking into account of any documents.

8.For the foregoing reason, the order of the 3rd Respondent dated 23.01.2011 is set aside even though the writ petition is filed for Mandamus and the 3rd respondent is directed to pass a reasoned order having regard to the claim of the petitioners as well as the allegations of fraud. The said exercise shall be done within a period of eight weeks after issuing notice to the petitioners and the interested parties on whom the Patta stands as on today.

9.In the result, the order of the 3rd Respondent dated 23.01.2011 is set aside and the writ petition is disposed of with the above said direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar



To

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Trichy District.

3.The Tahsildar,
Srirangam,
Trichy District.

+1cc to M/s N.R.Murugesh, Advocate, SR No.58575
+1cc to Special Government Pleader, sr no.59138

W.P. (MD) .No.6309 of 2011
and
M.P (MD) No.2 of 2011
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AAM/SKN/SAR.2/5.4.2017/4P.6C