



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.07.2017

CORAM:

THE HONOURABLE MR. JUSTICE K. KALYANASUNDARAM

W.P. [MD].No.12178 of 2017

1.Epsibai
2.Ramesh
3.Magesh
4.Selvin
5.Rajamani Paripooranam
6.Amutha
7.Vinsila Roasline

: Petitioners

Vs.

The Tahsildar,
Sattankulam Taluk,
Sattankulam - 628 704.
Tuticorin District.

: Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings in Endorsement No.M.M.B6/1945/2015, dated 10.03.2015, on the file of the respondent herein, and to quash the same and direct the respondent to effect sub-division of the property of the petitioners bearing Survey No.549/2 to an extent of 0.31.75 hectares lying on the Northern side of 0.63.5 acres in Karunkadal village in Sattankulam Taluk, Tuticorin District, and issue a separate patta in favour of the petitioners, after effecting the sub-division in respect to the lands, within a time frame as may be fixed by this Court.

For Petitioner	: Mr.S.Subbaiah Senior Counsel for Mr.N.Subramanian
For Respondent	: Mr.G.Muthukannan Government Advocate

O R D E R

By consent, the Writ Petition is taken up for final disposal at the stage of admission itself.



2. Heard Mr.S.Subbaiah, learned Senior counsel appearing for the petitioners and Mr.G.Muthukannan, learned Government Advocate appearing for the respondent.

3. The Writ Petition has been filed to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings in Endorsement No.M.M.B6/1945/2015, dated 10.03.2015, on the file of the respondent herein, and to quash the same and direct the respondent to effect sub-division of the property of the petitioners bearing Survey No.549/2 to an extent of 0.31.75 hectacres lying on the Northern side of 0.63.5 acres in Karunkadal village in Sattankulam Taluk, Tuticorin District and issue a separate patta in favour of the petitioners after effecting sub division in respect to the lands.

4. Mr.S.Subbaiah, learned Senior Counsel appearing for the petitioner would submit that an ancestral property of the petitioners' family was already orally partitioned and the right of the petitioners have been confirmed by the Civil Court in O.S.No.84 of 2013. It is further submitted that the allotment was made with specific boundaries. Pursuant to the decree passed in O.S.No.84 of 2013, dated 24.03.2014, the petitioners approached the respondent for effecting sub-division of the properties and to issue a separate patta based on the Civil Court decree, but the respondents rejected the application on the only ground of non registration of the partition deed, which cannot be sustained in law.

5. Mr.G.Muthukannan, learned Government Advocate appearing for the respondent would submit that the petitioners can be directed to give a fresh application enclosing this order copy and the decree passed in the Civil Suit and the application of the petitioner will be considered, taking into consideration of the decree passed in the civil suit.

6. Considering the submissions of the learned counsels, the order impugned in the writ petition is quashed and the writ petition is allowed. The petitioners are directed to give a fresh application to the respondent along with all necessary documents, within a period of two weeks from the date of receipt of a copy of this order. On such compliance, the respondent shall pass orders afresh on merits and in accordance with law, after providing opportunities to both parties, within a period of eight weeks, thereafter. No costs.

Sd/-

Assistant Registrar(CS-I)

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Sub Assistant Registrar



To

The Tahsildar,
Sattankulam Taluk,
Sattankulam - 628 704.
Tuticorin District.

+1cc to Mr.N.Subramanian, Advocate Sr.No.65933

AM/SSS

VB/SV/AAM/SAR4/01/08/2017/3P/3C

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