



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.02.2018

CORAM :

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THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

WP (MD) No.3583 of 2018

and

WMP(MD)No.3722 of 2018

S.Varatharaja Boopathy

.. Petitioner

Vs.

1. The District Collector,
District Collector Office,
Kanyakumari District.

2. The Revenue Divisional Officer,
Revenue Divisional Office,
Nagercoil,
Kanyakumari District.

3. The Tahsildar,
Agastheeswaram Taluk,
Nagercoil,
Kanyakumari.

... Respondents

Petition filed under Article 226 Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned communication issued by the second respondent in Na.Ka.No.A5/4221/2012 dated 06/02/2018 and quash the same as illegal and consequently direct the second respondent to keep in abeyance of all further proceedings pertaining to the cancellation of patta of the petitioner's lands in Survey Nos.200/3, 200/3B, 200/8, 200/8C, 203/113, 142/1B, 142/4B, 172/11B, 172/4B, 172/6B, 197/3B, 1 99/4B, 207/53, 207/8B, 223/5B, 229/2B and 264/4B at Dharmapuram North Village, Agastheeswaram Taluk, Kanyakumari district until the civil disputes are settled.

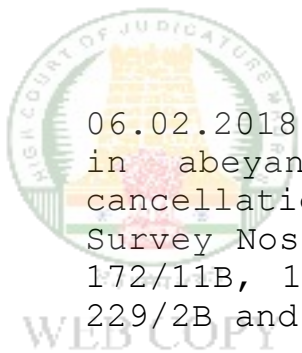
For Petitioner : Mr.S.M.A.Jinnah

For Respondents : Mrs.J.Padmavathi Devi
Special Government Pleader

ORDER

<https://hcservices.ecourts.gov.in/hcservices/>

This writ petition has been filed challenging the impugned communication issued by the second respondent dated



06.02.2018 and consequently direct the second respondent to keep in abeyance of all further proceedings pertaining to the cancellation of patta in respect of the petitioner's lands in Survey Nos.200/3, 200/3B, 200/8, 200/8C, 203/113, 142/1B, 142/4B, 172/11B, 172/4B, 172/6B, 197/3B, 1 99/4B, 207/53, 207/8B, 223/5B, 229/2B and 264/4B at Dharmapuram North Village.

2. According to the petitioner, as per the final decree passed in the partition suit in O.S.No.69 of 1985, the petitioner has been allotted a property measuring to an extent of 47 cents in S.No.223/5, and that judgment and decree have become final. The other co-sharers, who have no right over the said property, attempted to transfer the patta in their favour and the concerned Tahsildar has also issued notice to the petitioner. Challenging the notice, the petitioner has filed WP(MD)No.20519 of 2015 before this Court and the same is pending. Now, the second respondent has issued notice for enquiry for sub-dividing the property. Challenging the same, this writ petition has been filed.

3. Admittedly, as per the final decree passed in the above suit, the petitioner had some share in the joint family property, and as per the final decree, the property should necessarily be sub divided between the co-owners of the property. For that, the petitioner cannot have any grievance. According to the petitioner, even though he is ready and willing to go for sub division, the co-sharers are not agreeable for the same.

4. In the above circumstances, the petitioner is directed to appear before the second respondent for enquiry and submit all the relevant documents. On receipt of such documents, the second respondent is directed to issue notice to other co-owners and after considering the objections of all the parties, pass orders on merits and in accordance with law.

5. With the above direction, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
District Collector Office,
Kanyakumari District.

2. The Revenue Divisional Officer,
Revenue Divisional Office,
Nagercoil,
Kanyakumari District.



3. The Tahsildar,
Agastheeswaram Taluk,
Nagercoil,
Kanyakumari.

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+1cc to Mr.S.M.A.Jinnah, Advocate Sr.No.50401
+1cc to Spl.Government Pleader Sr.No.50904

MJ

VB/SV/MMS/SAR4/15/03/2018/3P/6C

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