



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 26.11.2018

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.23424 of 2018

R.Kaliyaperumal

..Petitioner

Vs

1.The District Collector,
Thiruchirappalli District.

2.The Tahsildar,
Taluk Office,
Mannachanallur,
Thiruchirappalli District.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the second respondent to consider the Petitioner's application dated 29.5.2018 for sub-division and for issuance of separate patta in the name of Petitioner in respect of the property bearing S.No.38/9 bearing Patta No.575 situated in Koothur Village, Mannachanallur Taluk, Trichy District.

For Petitioner :Mr.M.Gnanagurunathan

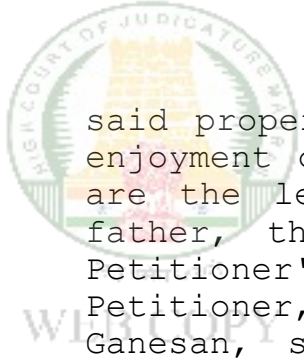
For Respondents :Mr.S.Dhayalan
Government Advocate

ORDER

The Petitioner has prayed for issuance of a Writ of Mandamus directing the second respondent to consider the Petitioner's application, dated 29.5.2018 for sub-division and for issuance of separate patta in the name of Petitioner in respect of the property bearing S.No.38/9 bearing Patta No.575 situated in Koothur Village, Mannachanallur Taluk, Trichy District.

2.Mr.S.Dhayalan, learned Government Advocate takes notice for the respondents. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3.The Petitioner's case is that originally the above said property bearing S.No.38/9 bearing Patta No.575 situated in Koothur Village, Mannachanallur Taluk, Trichy District belongs to his grand-father Kaliyaperumal and the total extent of the said land is 2 acres and 20 cents and after the demise of his grand-father, the



said property devolves on his father and he was in possession and enjoyment of the same. The Petitioner and one daughter and one son are the legal heirs of his father and after the death of their father, they are in possession and enjoyment of the same. The Petitioner's brother and sister without the knowledge of the Petitioner, sold the entire property including his share to one Ganesan, son of Shanmugam by way of registered sale deed vide Document No.644/1985, dated 11.4.1985. Immediately, the Petitioner after knowing the same, filed a suit in O.S.No.137 of 1986 before the Sub-Court, Trichy seeking declaration of sale as null and void and also for one third share in the suit property. The said suit was decreed in favour of the Petitioner. Aggrieved by the same, opposite party/the subsequent purchaser has filed an appeal in A.S.No.295 of 1999 before the Additional District Court, Trichy and the same was dismissed by a judgment and decree, dated 4.10.2001. The petitioner would further contend that pending the suit, the purchaser has applied for transfer of patta on the basis of sale deed and suppressing these facts and the same was mutated in the village records by the revenue authorities. Aggrieved by the order passed by the lower appellate court in A.S.No.295 of 1999, the purchaser Ganesan filed a Second Appeal in S.A.No.1656 of 2002 which is pending before this Court. In the meantime, the said Ganesan in turn sold the property to one Antony Jose, son of Rajamani by way of registered sale deed dated 07.04.2010. Thereafter, the Petitioner approached the second respondent for transfer of patta in respect of her share in S.No.38/9. The second respondent has submitted a report to the District Revenue Officer, Trichy and the District Revenue Officer, Trichy has passed an order dated 30.12.2017 in Na.Ka.No.Aa.21150/2017.

4. A Second Appeal has been filed by the opposite party namely the subsequent purchaser Ganesan and brother and sister of the Petitioner herein in S.A.No.1656 of 2002, which is pending. In the said proceedings, the Revenue authorities are not made as parties and as per the orders in A.S.No.295/1999, the Petitioner's name has been included in the joint patta, as per the notice of the Tahsildar, The District Revenue Officer, Trichy has also directed them to include the name of the Petitioner in the joint patta. Under these circumstances, this Court do not find any error in the order passed by the authorities concerned. Since the Second appeal is pending from the year 2002, the Petitioner has approached this Court by way of Writ Petition in the year 2018 seeking to consider his representation dated 29.5.2018. It is left open to the Petitioner to approach the Revenue authorities after the disposal of S.A.No.1656 of 2002 and after establishing his title to the said property, he has got every right to make a claim for transfer of patta in his name in the revenue records, if he establishes his title through a competent Court of Law. It is left open to the Petitioner to approach the authorities concerned for issuance of separate patta. In the absence of any other valid document produced, patta cannot be cancelled. The Petitioner cannot be given separate patta simply by passing an order in this Writ petition and the



Petitioner can very well approach the revenue authorities for the said relief, after establishing his right before a Competent Civil Court.

5. With the above observations, the Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-II)

To

1. The District Collector,
Thiruchirappalli District.

2. The Tahsildar,
Taluk Office,
Mannachanallur,
Thiruchirappalli District.

• 1 CC TO Mr.M.Gnanagurunathan , ADVOCATE IN SR No.96874.
+1 cc to Special Government Pleader, SR.No.97045.

VSN

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W.P(MD)No.23424 of 2018