



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.02.2020

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THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P. (MD)No.3578 of 2020

S.Subramanian

: Petitioner

vs.

1.The Revenue Divisional Officer,
Pattukottai, Thanjavur District.

2.The Tahsildar,
Pattukottai Taluk,
Pattukottai, Thanjavur District.

3.The Taluk Surveyor,
Pattukottai Taluk,
Pattukottai, Thanjavur District.

: Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the respondents to survey the petitioner's properties situated at S.No.189/16C1 to an extent of 2468.4 sq.ft., situated at Soorapallam Village, Pattukottai Taluk, Thanjavur District on the basis of the petitioner's representation, dated 21.01.2020.

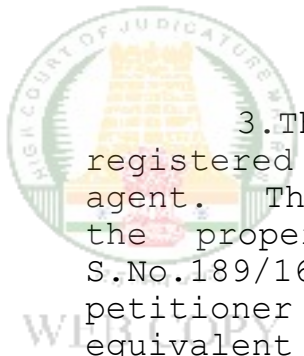
For Petitioner
For Respondents

:Mr.B.Anandhan
:Mr.A.Thiyagarjan
Government Advocate

O R D E R

This Writ Petition is filed for a direction to the respondents to survey the petitioner's property situated at S.No.189/16C1 to an extent of 2468.4 sq.ft., situated at Soorapallam Village, Pattukottai Taluk, Thanjavur District on the basis of the petitioner's representation, dated 21.01.2020.

2.The petitioner stated that he purchased the property in S.No. 189/16C1 to an extent of 2468.4 sq.ft., situated at Soorapallam Village, Pattukottai Taluk, Thanjavur District. It is stated that the petitioner has made a representation to the second respondent, on 29.11.2019, requesting him to survey the property. It is stated that he has paid the charges, which is required for survey. Stating that the petitioner's representation was not considered, the petitioner has approached this Court for a direction to the respondents to survey his property.

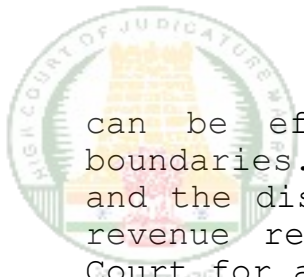


3.The petitioner has purchased the property under the registered sale deed, dated 20.04.2015, through power of attorney agent. The sale deed indicates that the petitioner has purchased the property measuring to an extent of 2468.4 sq.ft., in S.No.189/16C. The description of the property indicates that the petitioner has purchased about 5½ cents out of 0.09.5 Hectares equivalent to 23 cents. The petitioner appears to have obtained a separate patta in respect of 0.02.70 Hectares in S.No.189/16C1. The separate patta also indicates that the petitioner, who purchased only an extent of 2468.4 sq.ft., has obtained an extent, which is more than the property purchased by him in 2015. The petitioner himself has come to Court alleging that the property has not been demarcated on ground and that the respondents are required to survey the land purchased by the petitioner and to fix boundary for the property on ground by demarcation.

4.Sub division and separate patta in respect of lands in joint holding may be effected at the instance of any one of the joint holders of a ryotwari land or the persons, to whom, the whole or part of property has been transferred provided the portions are identifiable on ground by well defined boundary. Though consent of joint holders is not necessary, notice should be issued to every joint holders of property in a particular survey number before effecting sub division. The position is evident from Clause 31(13) (iii) of Revenue Standing Orders.

5.From the admission of the petitioner himself in this case, it is evident that no sub division has taken place on ground, as it is contemplated. The petitioner was given separate patta by defining his rights without inspecting the property on ground. The patta has been issued in the name of petitioner for a larger extent. In such circumstances, the sub division and separate patta issued to the petitioner is unsustainable and hence, separate patta issued in favour of the petitioner, as found in the typed set, in respect of the land in S.No.189/16C1, is set aside. The property should be registered in the holdings of all the joint owners including the petitioner in the revenue records, as it was existed prior to the sub division. If the petitioner's title is not in dispute in respect of the property purchased by him, as per the registered sale deed, dated 20.04.2015, the Tahsildar is directed to hold an enquiry by issuing notice to all the joint owners and then to grant separate patta in respect of the extent, if no objection is received from the other joint holders.

6.Sub division can be effected only after issuing notice all the joint pattathars, as it is reiterated by this Court in several other cases. Hence, the Tahsildar is directed to issue notice to all the joint holders before making any correction in the revenue records. After making a spot inspection and if all the joint holders of the property in S.No.189/16C have no objection, a sub division



can be effected on ground as per the enjoyment with defined boundaries. If there is a dispute as regards extent or enjoyment and the dispute cannot be resolved on the basis of prior entries in revenue records, the Tahsildar shall refer the dispute to Civil Court for appropriate relief.

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7. In fine, the Writ Petition stands dismissed with the above directions. No costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

1. The Revenue Divisional Officer,
Pattukottai, Thanjavur District.

2. The Tahsildar,
Pattukottai Taluk,
Pattukottai, Thanjavur District.

3. The Taluk Surveyor,
Pattukottai Taluk,
Pattukottai, Thanjavur District.

+1cc to Mr.B.Anandhan, Advocate, SR No.8663

+1cc to M/s.Special Government Pleader, SR No.9127

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KK/12.03.2020/ 3P- 6C

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