



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **24.11.2020**

CORAM:

THE HONOURABLE MR.JUSTICE **S.VAIDYANATHAN**

W.P (MD) No.16726 of 2020

Swamidoss

... Petitioner

Vs.

1.The Tahsildar,
Thiruvengadam,
Thiruvenkadam (Taluk),
Tenkasi (Dist) .

2.The Head Surveyor,
Thiruvengadam,
Thiruvenkadam (Taluk),
Tenkasi (Dist) .

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents herein to survey the land in survey No.532/22 situated at Perunkottur (Village), Thiruvenkadam (Taluk), Tenkasi (Dist) and issue an individual Patta in favour of the petitioner, based on the petitioner's representation dated 06.10.2020 within the time stipulated by this Court.

For Petitioner : Mr.V.Selvakumar

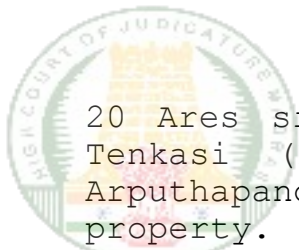
For Respondents : Mr.M.Murugan
Government Advocate

ORDER

This writ petition has been filed for issuance of a direction to the respondents to survey the land in survey No.532/22 situated at Perunkottur (Village), Thiruvenkadam (Taluk), Tenkasi (Dist) and issue an individual Patta in favour of the petitioner, based on the petitioner's representation dated 06.10.2020 within a stipulated time.

2. Mr.M.Murugan, learned Government Advocate takes notice for the respondents. By consent, the writ petition is taken up for disposal at the admission stage itself.

3. The petitioner has submitted that the property comprised in punja Survey No.532/22 having Patta No.217 measuring to an extent of



20 Ares situated at Perunkottur (Village), Thiruvenkadam (Taluk), Tenkasi (Dist) originally belongs to the petitioner's father Arputhapandian, John Samuel Paulraj and Devasahayam as joint property. In connection with the partition and allotment of their respective shares, the above said John Samuel and the petitioner's father Arputhapandian have filed a suit in O.S.No.323/1995 on the file of the District Munsif Court, Sankarankovil. Thereafter, since the above said Paulraj and Devasahayam did not appear before the Court, on 17.02.2004, the learned Additional District Judge, Sankarankovil passed an exparte order and allotted $\frac{1}{2}$ share each to the above said Arputhapandian and John Samuel to an extent of 0.10.00 ares (melbagam) and $\frac{1}{2}$ share each to an extent of 0.10.00 ares (keel bagam) in favour of the Paulraj and Devasahayam. Thereafter necessary mutation took place in the revenue records. He further submitted that though such shares were allotted to the respective persons, the revenue authorities have not issued individual patta in respect of the above persons and till date joint patta only exists in the revenue records. Hence, the petitioner sent a representation on 06.10.2020 to issue separate patta. The first respondent has not taken any action so far. In such circumstances, the petitioner has come forward with the present Writ Petition.

4. Considering the facts and circumstances, the first respondent is directed to consider the representation of the petitioner, dated 06.10.2020 and pass appropriate orders in accordance with law, after hearing the petitioner and the persons who will likely to be affected. In case of issuance of patta, survey needs to be conducted and the said survey shall be photographed and videographed in the presence of the petitioner and the persons who are likely to be affected and the costs of photograph and Videograph to be borne by the party seeking patta. Such exercise shall be completed within a period of three months from the date of receipt of a copy of this order. It is made clear that this Court has not decided the rights of the parties in the present Writ Petition. It is open to the respondents to decide the same. The directions given in W.P(MD).No.7746 of 2020 etc., batch dated 23.09.2020 and W.P.(MD)No.13465 of 2020 dated 05.10.2020 should be followed wherever it is applicable. In case any Civil Suit is already pending, there is no need for measuring the land in question, as it is for the Civil Court to decide the matter. After the order of this Court if any suit is filed, the officials hands are not tied to carry out the directions mentioned in the aforesaid two orders, as there is a possibility of one or other party to move the Court later and to stall the proceedings before the revenue authorities. Only exception is if an interim order operates against the authorities. This Court makes it very clear that unless and until there is demarcation, bifurcation or sub-division, the petitioner cannot be entitled to get a separate patta. The petitioner will have to establish before the authorities concerned that there is a sub-division in the property in question.



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

Sd/-

Assistant Registrar (CS-III)

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// True Copy //

/ /2020

Sub Assistant Registrar(CS)

PJL

To

1.The Tahsildar,
Thiruvengadam,
Thiruvenkadam (Taluk),
Tenkasi (Dist) .

2.The Head Surveyor,
Thiruvengadam,
Thiruvenkadam (Taluk),
Tenkasi (Dist) .

+1 CC to M/s.GP (SR-22959[F] dated 26/11/2020)

W.P (MD) No.16726 of 2020
24.11.2020

PM(CO)

AP(14/12/2020) 3P 4C