



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.11.2020

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD)No.2000 of 2016

and

W.M.P. (MD)No.15523 of 2018

WEB COPY

1.S.Muniyandi (Died)
2.M.Murugesan
3.M.Kamatchipandiyan
4.Dhanalakshmi

...Petitioners

(P2 to P4 are impleaded vide Court Order dated 08.10.2020 in W.M.P. (MD)No.16170 of 2019 in W.P.(MD)No.2000 of 2016)

-Vs-

1.The Tahsildar,
Kariyapatti Taluk, Kariyappati,
Virudhunagar District.

2.Selvaraj
3.Mariappan
4.M.Gopalakrishnan
5.T.Mathiyalagi
6.Meenakshi @ Meena
7.Saraswathi

...Respondents

(R4 to R7 are impleaded vide Court Order dated 08.10.2020 in W.M.P. (MD)No.16170 of 2019 in W.P.(MD)No.2000 of 2016)

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the first respondent to grant patta to the petitioner for his property situated in Survey No.47/2 with an extent of 2 Acre and 25 cents at Kattukuthakai Karisalkulam Village, Aruppukottai Taluk, Ramanathapuram District now Kariyapatti Taluk, Virudhunagar District by considering the petitioner's petition dated 17.01.2014 within the period stipulated by this Court.

For Petitioners : Mr.A.Haja Mohideen
For R1 : Mr.M.Murugan,
Government Advocate
For R2 to R7 : Mr.S.Parthasarathy



ORDER

This Writ Petition has been filed, seeking a direction to the first respondent to grant patta to the petitioner for his property situated in Survey No.47/2 with an extent of 2 Acre and 25 cents at Kattukuthakai Karisalkulam Village, Aruppukottai Taluk, Ramanathapuram District, now, Kariyapatti Taluk, Virudhunagar District by considering the petitioner's petition dated 17.01.2014 within the period stipulated by this Court.

2. According to the first petitioner, his father, by name Shanmugavel Nadar had purchased the property in Survey No.47/2 to an extent of 2 Acre and 25 cents at Kattukuthakai Karisalkulam Village, Aruppukottai Taluk, Ramanathapuram District, now, Kariyapatti Taluk, Virudhunagar District. After his demise, the first petitioner is in possession and enjoyment of the property in question. In order to grab the property in question, the respondents 2 and 3 and his father namely, Thangaiya Nadar, who is the brother of the first petitioner's father, have got joint patta in Patta No.648. Therefore, the petitioner has given a representation dated 17.01.2014 to the first respondent to cancel the said joint patta. Having received the same on 18.01.2014, the first respondent did not take any action. Hence, the petitioner has approached this Court seeking aforesaid prayer.

3. Normally, this Court will not hesitate to order survey the property and consider the request of issuance of patta. But in this case, it is very clear from the documents that the property has been sold as early as in the year 1960 and the deceased petitioner and his father have executed a sale deed dated 04.10.1960 in favour of the said Thangaiya Nadar. The father of the first petitioner on behalf of self and with regard to the minors, has also signed the document. The deceased petitioner has issued a paper publication, stating that the documents have been misplaced and an Advocate notice was caused on 27.01.2014 to the deceased petitioner. Apart from the issuance of counter notice in the paper on 27.01.2014, the petitioner has slept over the matter for over three years. Knowing that limitation will not come in the way, suit for partition has been preferred, otherwise the deceased petitioner would have sought for relief of declaration that he is the owner of the property. In any event as the issue has already been concluded and that the contesting respondents have got revenue records mutated, the deceased petitioner tried to create unnecessary hurdles to the contesting respondents, exhuming the issue already concluded as early as in the year 1960 by filing the suit in the futile exercise. During the pendency of the Writ Petition, the petitioner died and his legal heirs have been substituted in the place of the deceased petitioner and now, the legal heirs are trying to unsettle the issue already settled.



Therefore, the relief sought for by the petitioner cannot be granted. Therefore, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Myr

Note:In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Tahsildar,
Kariyapatti Taluk, Kariyappati,
Virudhunagar District.

+1 CC to Mr.S.PARTHA SARATHY, Advocate (SR-21681[F] dated 10/11/2020)

+1 CC to SGP (SR-21770[F] dated 10/11/2020)

Order made in
W.P. (MD)No.2000 of 2016
09.11.2020

CK(CO)
KM (26.11.2020) 3P 4C