

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 17.03.2021

CORAM

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR
W.P. No. 31221 of 2013
and M.P. No.1 of 2013

S.Ramakrishnan

.. Petitioner

Vs.

The Tahsildar,
Thiruvallur Taluk,
Thiruvallur District.

.. Respondent

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order dated 03.07.2013 Ref. No.Na.Ka.2713/2013/Aa2 and quash the same and consequently direct the respondent authority to survey and fix the boundaries of the petitioner's land in Survey No.12/1 (part) Sirukalathur Village, Thiruvallur Taluk & District and thereafter make subdivision and grant separate patta or else joint patta within a time to be stipulated by this Hon'ble Court.

For Petitioner : No Appearance
For Respondent : Mrs. A.Madhumathi
Special Government Pleader

O R D E R

This writ petition is filed for issuing a writ of certiorarified mandamus to quash the impugned order passed by the respondent dated 03.07.2013 and to direct the respondent to survey and fix the boundaries of the respondent in Survey No.12/1(part) in Sirukalathur Village, Thiruvallur Taluk & District and also to make sub-division and grant separate patta within a time prescribed by this Court.

2. Brief facts that are necessary for the disposal of this writ petition are as follows:

The petitioner claims absolute ownership in respect of a land measuring 50 Cents comprised in Survey No.12/1(part) in Sirukalathur Village, Thiruvallur Taluk & District, on the basis of a registered sale deed dated 01.12.1989 obtained from one Mr. N.Raghavalu Naidu. The petitioner states that he is in possession and enjoyment of the said property. Stating that the petitioner is unable to construct a building or fence or

put up a compound wall over the property that was purchased by him, the petitioner contends that he requested the authorities from the year 2011 for measurement and fixation of boundaries of petitioner's property and for issuance of patta. Since petitioner's representations were not considered, he earlier filed a writ petition in W.P. No.32967 of 2012 for issuing a writ of mandamus directing the respondents to consider the petitioner's application dated 25.06.2012, for survey and fixation of boundary of the land purchased by him. The said writ petition was disposed of by an order of this Court dated 11.12.2012, directing the respondent to take action on the representation of the petitioner dated 25.06.2012, within a period of eight weeks. Thereafter, the respondent passed an impugned order on 03.07.2013 rejecting the representation of the petitioner. The petitioner's representation before the respondent was to issue separate patta after sub-division and demarcating the land purchased by him by fixing the boundaries.

3. It is noticed by the respondent that patta for the property in Survey No.12/1 stands in the name of two persons namely N.Raghavalu Naidu S/o. Nagappan and another person by name, Nethaji S/o. Ram Naidu. The petitioner has purchased the property from the said Raghavalu Naidu. Since the property is found in the joint holdings of two persons, the respondent rejected the representation for demarcation of boundary and for issuance of separate patta to the petitioner mainly on the ground that the land purchased by the petitioner is not divided and that after division, the petitioner can approach the Revenue Officials for issuance of separate patta. It is further stated that the Sub-Taluk Surveyor found that there is no boundary fixed on ground and that the measurement as per the document does not tally with the actual records. Since the petitioner is not in separate possession and there is no boundary demarcating the petitioner's land, the representation of the petitioner has been rightly rejected.

4. This Court does not find any material irregularity or error in the order of the respondent refusing to demarcate the land or to lay boundary stones or to give separate patta to the petitioner. When the revenue records show the ownership in favour of two different persons without actual demarcation or division or partition among the parties, the Revenue Authorities cannot survey the property or fix the boundaries by accepting or rejecting the submission of one of parties who is interested. The Revenue Officials are not supposed to decide the dispute between the parties regarding title, ownership or boundary or enjoyment. Hence, this Court is inclined to dismiss the writ petition.

5. Learned counsel appearing for the petitioner, ignoring the fact that the land is registered in the name of not only the petitioner's vendor but also in favour of some other, submits that the documents produced by him proves the

ownership and exclusive title of the petitioner. This submission of the petitioner is contrary to records. The petitioner, though found that the revenue records stand in the name of different persons, has not even come forward to implead the person who is also interested. In such circumstances, the writ petition is also liable to be dismissed on the ground of non joinder of necessary and proper parties.

6. Accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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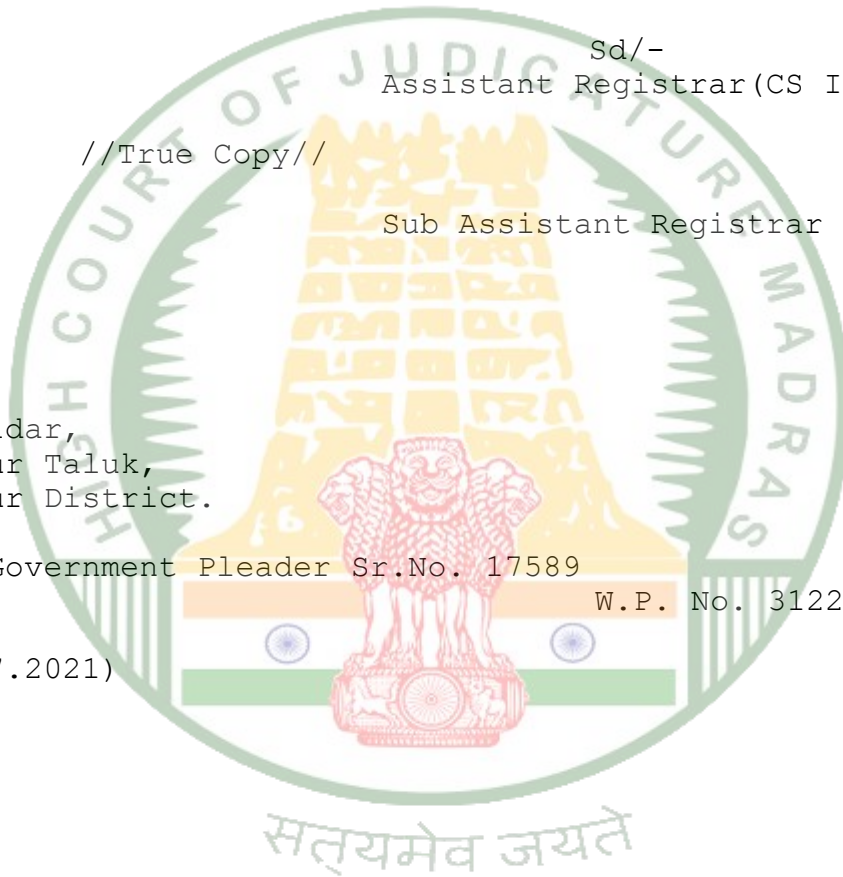
To

The Tahsildar,
Thiruvallur Taluk,
Thiruvallur District.

+1 cc to Government Pleader Sr.No. 17589

W.P. No. 31221 of 2013

GPL(CO)
A.SK(12.07.2021)



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