IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2021

CORAM:

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

W.P. No. 7909 of 2021

K.P.S. Sendhil ... Petitioner

Vs

The Tahsildar,
Chinnasalem Taluk,
Chinnasalem,
Villupuram District. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondent to forthwith survey and fix the boundary for the lands of the petitioner comprised in Survey No.193/4K1B, situated at Chinnasalem (North) Village, Chinnasalem Taluk, Villupuram District, by considering and passing orders on the application of the petitioner dated 09.02.2021.

For Petitioner : Mr. K.Selvaraj

For Respondent : Mr. E.Balamurugan
Special Government Pleader

O R D E R

This petition is filed for issuing a writ of mandamus directing the respondent to survey and fix the boundary for the lands of the petitioner comprised in Survey No.193/4K1B, situated at Chinnasalem (North) Village, Chinnasalem Taluk, Villupuram District, by considering the application of the petitioner dated 09.02.2021.

2. The petitioner has not produced before this Court the previous patta even though the petitioner claim title to the property of an extent of 22 Cents by a sale deed dated 03.06.2019 which is registered as document No.2277 of 2019. From the description of the property in the sale deed dated

03.06.2019, it is seen that the petitioner has purchased undivided extent of 22 Cents out of 27 Cents in Survey No.193/4K1B, situated at Chinnasalem (North) Village, Chinnasalem Taluk, Villupuram District. The property was also described with reference to four boundaries. However, the four boundaries mentioned in the sale deed is not by referring to the survey number of each boundary. Therefore, the property purchased by the petitioner is only a lesser extent in the survey number. Within a short time the petitioner is able to get patta for an extent of 22 cents as seen from the document dated 15.10.2019. After getting patta by showing the property which falls within Survey No.193/4K1B, the petitioner obtained patta for an extent of 0.8.95 Ares equivalent to 22 Cents. Based on the patta, the petitioner now seeks demarcation / fixation of boundary for the lands he purchased under 2019 document.

3. The petitioner is not the owner of entire survey number. When there are more than one owner in respect of a survey field, the joint owners may hold the property as per the revenue record. If any one of the joint owners applies for separate patta from the Revenue Officials, it is open to the Revenue Officials to consider such application either for separate patta or for sub-division after issuing notice to all the owners who are interested. Even the neighbouring owners who may have interest in fixing boundary shall be given notice so that the parties will have no grievance. At the time of sub-division proceedings, the Revenue Officials are expected to carefully consider the issues relating to individual holdings on the basis of previous revenue records and the documents of title so that they will go well with the survey and revenue records. If there is discrepancy with the revenue records and documents of title relied upon by the individuals, the measurement and the survey records including FMB will have preference over the documents of title that may be produced. If a situation arises for modification of entries in revenue records without corresponding document or devolution of interest, it is open to the Revenue Officials to consider the individual holdings not only on the basis of revenue records but also on the basis of documents of title traceable from the registered land owners.

4. A sub-division can be effected only after issuing notice to every person interested. If there are serious dispute relating to title or enjoyment, the dispute regarding title or enjoyment cannot be decided by the Revenue Officials. In those circumstances, it is open to the Revenue Officials to relegate the parties to approach the Civil Court for appropriate orders. It may not be always the rule that the Revenue Officials should decline to consider the application for sub division merely because an objection was raised by one or few. It is open to the

Revenue Authorities to consider the bonafides of claim on the basis of documents which are admissible in evidence and corroborated by authenticated entries in revenue records in the manner known to law.

5. In the present case, the date of patta immediately after the registration of the sale deed raises a doubt as to the genuineness of the claim. If a sub division had already been effected after issuing notice to all parties who are interested, the respondents may proceed to consider the application of the petitioner. In case the patta granted in favour of the petitioner is in respect of a specific extent, without an enquiry or without issuing notice to the persons who are interested, the Tahsildar may initiate fresh proceedings for modification of records after cancelling the patta in favour of the petitioner after giving notice to the petitioner. The respondent, thereafter, shall pass appropriate orders on merits and in accordance with law. Before survey or measurement or demarcation of land, at the request of the petitioner, the respondent shall issue notice once again to all the persons who are interested.

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

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

bkn
To

The Tahsildar,
Chinnasalem Taluk,
Chinnasalem,
Villupuram District.

+1cc to the Government Pleader Sr.20151
+1cc to Mr.K.Selvaraj, Advocate Sr.19842

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