



IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 02.07.2021

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.36445 of 2015 and M.P.Nos.1 and 2 of 2015

V.Sadasivam

... Petitioner

-Vs-

- 1 The Tahsildhar
Arcot Taluk, Arcot, Vellore District.
- 2 Babyammal
W/o Sajivarayan
- 3 The Sub Registrar
Arcot, Vellore District.
- 4 The Revenue Divisional Officer
Ranipet, Ranipet District.
R4(Suo-motu impleaded by order
of this Court dated 02.07.2021)
Made in W.P.No.36445 of 2015
By RSKJ

..Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records relating to the joint patta issued by the 1st respondent in patta No.1464 dated 08.09.2015 quash the same and forbearing the 2nd respondent from alienating or encumbering the lands comprised in S.Nos. 16/1, 16/2A, 20/3, 20/4B, 20/5, 23/1, 25/2, 25/3A, 25/4, 25/5, 25/6, 25/7, 31/1 31/2, 31/3, 31/4, 32/2 and 32/4 Sakkaramallur Village Arcot Taluk Vellore District on the basis of the said patta issued by the 1st respondent.

For Petitioner : Mr.P.Mani

For Respondents : Ms.Akila Rajendran,
Govt.Counsel for R1,R3 & R4
Mr.R.Rajarajan - for R2



O R D E R

The prayer sought for herein is for a Writ of Certiorarified Mandamus calling for the records relating to the joint patta issued by the 1st respondent in patta No.1464 dated 08.09.2015 quash the same and forbearing the 2nd respondent from alienating or encumbering the lands comprised in S.Nos. 16/1, 16/2A, 20/3, 20/4B, 20/5, 23/1, 25/2, 25/3A, 25/4, 25/5, 25/6, 25/7, 31/1, 31/2, 31/3, 31/4, 32/2 and 32/4 Sakaramallur Village Arcot Taluk Vellore District on the basis of the said patta issued by the 1st respondent.

2. The case of the petitioner is that, in respect of various properties situated at Sakaramallur Village, Arcot Taluk, Vellore District, the petitioner's father one Veeraraghavan was the owner and after his demise a partition had taken place between the petitioner, his brother's wife and another brother. The said partition had taken place in January 1992. Accordingly, 'A' Schedule property was given to the brother's wife of the petitioner and 'B' Schedule property was given jointly to the petitioner and another brother viz., Shanthi.

3. Accordingly, it is the claim of the petitioner that, they had been in possession and enjoyment of the respective properties as per the allotment given in the partition referred to above. After some time, the said brother Shanthi also died on 31.10.1997. Therefore, the 'B' Schedule Property has become the absolute property in the possession and enjoyment of the petitioner.

4. When that being so, it is the case of the petitioner that, though the earlier patta stood in the name of the said Shanthi and the petitioner as Joint Pattadars, in respect of the various properties referred in the same village ie., 'B' Schedule property, subsequently at the instance of the legal heirs of the another sister Baby Ammal / second respondent, it seems that they approached the Revenue Authorities and were able to get joint patta in respect of the 'B' Schedule Property in the name of the said Baby Ammal / second respondent along with the petitioner and the said joint patta in Patta No.1464 dated 08.09.2015 was issued by the first respondent.

5. As against the said joint patta issued by the first respondent in the name of the petitioner as well as the second respondent, the petitioner, though had given an appeal to the Revenue Divisional Officer (hereinafter referred to as 'R.D.O.') in September 2015 ie., immediately after the issuance of the patta, which is impugned herein, the R.D.O. since has not taken any action and the since appeal has not been considered and



decided, the petitioner has filed this writ petition with the aforesaid prayer.

6. Heard Mr.P.Mani learned counsel appearing for the petitioner, who would submit that, though a prayer for a Writ of Certiorarified Mandamus has been sought for herein to cancel the patta in question ie., Patta No.1464 dated 08.09.2015, since an appeal has been filed before the R.D.O., as per the provisions of the Patta Passbook Act., the said appeal can be directed to be considered and decided by the R.D.O., who is the appellate authority under the said Act, after hearing both the petitioner as well as the second respondent on merits and in accordance with law within a time frame that may be stipulated by this Court and if such a direction is issued, the petitioner would be satisfied, he contended.

7. Heard Ms.Akila Rajendran, learned Counsel for the Government appearing for the official respondents ie., first and third respondents, who would submit that as against the alleged wrong patta issued in Patta No.1464 dated 08.09.2015 by the first respondent, admittedly the petitioner has preferred an appeal to the R.D.O., concerned ie., the R.D.O., Ranipet, Vellore District (now Ranipet District) in September 2015 itself. Therefore, if at all the said appeal is still pending and is not decided by the R.D.O., concerned, certainly that would be considered and decided by the R.D.O., after hearing both the petitioner as well as the second respondent and therefore, once he has preferred an appeal to the appellate authority under the provisions of the Patta Passbook Act, the question of challenging the patta dated 08.09.2015, as has been prayed in this writ petition, does not arise. Therefore, the learned Government Counsel would seek the indulgence of this Court to give suitable direction to the R.D.O., who may not be a party to this writ petition and therefore after impleading him, a direction to the R.D.O., concerned to take care of the issue raised in the appeal filed by the petitioner and is pending before the said authority, can be issued.

8. I have considered the rival submissions made by the learned counsel appearing for either side and also perused the materials placed on record.

9. As has been stated by the learned counsel for the petitioner, the original patta stood in the name of the petitioner and his brother one Shanthi and after his demise in the year 1997, if at all any new patta has to be given in respect of the 'B' Schedule property, the Tahsildar concerned should have enquired the matter and issued the patta in favour of the petitioner.

10. In this regard, if at all the Tahsildar or any Revenue



Authorities had received any petition from the second respondent, who is the sister of the petitioner claiming right over the 'B' Schedule property questioning the partition said to have been taken place on 21.01.1992, notice should have been given to the petitioner and without giving any notice since the present patta, which is impugned herein in Patta No.1464 dated 08.09.2015 has been issued by the first respondent, which is a joint patta inducting the name of the second respondent along with the petitioner, this Court feels that the said order is liable to be interfered with.

11. However, since the petitioner himself has preferred an appeal to the R.D.O., concerned as per the provisions of the Patta Passbook Act immediately, ie., in September 2015 itself, and according to the petitioner's counsel, the same is still pending with the said authority and no decision has been taken, this Court feels that a direction can be given to the R.D.O., concerned to decide the said appeal after giving an opportunity of being heard to both sides.

12. In this context, as submitted by the learned Government Counsel since the R.D.O., Ranipet, Ranipet District before whom the appeal is filed by the petitioner is pending, is not a party to this writ petition, this Court suo-motu impleads the said authority viz., the Revenue Divisional Officer, Ranipet, Ranipet District as one of the party respondent. Accordingly, the present writ petition is disposed of with the following directions.

- That there shall be a direction to the newly impleaded Revenue Divisional Officer, Ranipet, Ranipet District to decide the appeal by way of representation / complaint filed by the petitioner in September 2015 as against Patta No.1464 dated 08.09.2015 issued by the first respondent pertaining to the 'B' Schedule property of the petitioner as per the partition dated 21.01.1992 by including the name of the second respondent along with the petitioner's name, and accordingly decide the said issue on merits and in accordance with law. While deciding the same, the R.D.O., concerned shall issue notice to both the petitioner and the second respondent and after hearing them, the needful as indicated above shall be undertaken.
- The aforesaid enquiry shall be completed and a final decision shall be made by the R.D.O., within an outer time limit of three months from the date of receipt of a copy of this order.
- It is also made clear that, since the representation / appeal of the petitioner is of the year 2015, a copy of the



same shall also be annexed by the petitioner along with a copy of this order and on receipt of the same, the needful as indicated above shall be undertaken by him.

13. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-VIII)

// True Copy//

Sub Assistant Registrar

KST

To

- 1 The Tahsildhar
Arcot Taluk, Arcot, Vellore District.
- 2 The Sub Registrar
Arcot, Vellore District.
- 3 The Revenue Divisional Officer
Ranipet, Ranipet District.
(Suo-motu impleaded by order
of this Court dated 02.07.2021)

+1cc to Mr.R.Rajarajan , Advocate, S.R.No.31034
+1cc to M/S.P.Mani, Advocate, S.R.No.30899
+1cc to the Government Pleader, S.R.No.31777

W.P.No.36445 of 2015

PMK (CO)
CT(06/08/2021)