

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2021

CORAM : JUSTICE N.SESHASAYEE

W.P.No.8129 of 2020
and WMP.No.9653 of 2020

M.Matharsha

... Petitioner

Vs.

1.The Tahsildar
Thittakudi Taluk
Cuddalore District.

2.Jalaludheen
3.Jeyanu Be
4.Barkinsha
5.Abdulla
6.Mutharasan

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus forbearing the first respondent from inspecting and sub-dividing the properties in Survey Nos.302/4, 302/7A, 302/7B, 302/7C, 302/3, 302/5 and 302/6 at Korakavadi Village, Thittakudi Taluk, Cuddalore District and consequently forbearing the 1st respondent from granting patta for the properties in Survey Nos. 302/4, 302/7A, 302/7B, 302/7C, 302/3, 302/5 and 302/6 at Korakavadi Village, Thittakudi Taluk, Cuddalore District in favour of the 6th respondent till the civil suits in O.S.No.150/2017 and O.S.No.196/2019 on the file of the Sub Court, Perambalur is decided on merits.

For Petitioner : Mr.K.Selvaraj

For Respondents : Mr.S.N.Parthasarathy
Government Advocate [R1]
R2 to R6 - Notices served
[No appearance]

ORDER

The petitioner opposes the proceedings of the Tahsildar / first respondent sub-dividing a certain property, in which the respondents 2 to 6 seem to claim interest.

2. The learned counsel for the petitioner submits that there are atleast two suits, one in O.S.No.150/2017 and another in O.S.No.196/2019 on the file of the Sub Court, Perambalur, pertaining to the property in question, filed as between the petitioner and private respondents and a third party, as the case may be. The suit in O.S.No.150 of 2017 was filed by the respondents 2 to 4 for partition of 2/3 share. Be that as it may, a certain Fathima and others have filed the suit in O.S.No.196/2019, inter alia against the present petitioner and respondents 3 to 6 and others and this suit is also for partition, and that both the suits are pending. In between, the respondents 2 and 4 have filed O.S.No.63/2016 against the petitioner for partition of their 1/3 share and that came to be dismissed.

3. The learned counsel further submits that it is during the pendency of these suits, the Tahsildar has sub-divided the property, and even as per his statement, the patta is yet to be officially issued, and based on the said submission, the petitioner now seeks that he has filed a representation to the Tahsildar and seeks a direction that it be considered by him.

4. Heard Mr.S.N.Parthasarathi, learned Government Advocate for the first respondent.

5. Admittedly, there are civil suits pending for partition, and the individual title of the property has to be decided only by the concerned civil Court. Therefore, it would have been appropriate if the Tahsildar had stayed away from sub-dividing the property. But, it appears that the Tahsildar / first respondent was not informed about the pendency of the suits. Given the fact that the civil suits are pending, it may not be appropriate to direct the Tahsildar to consider the representation of the petitioner at this stage, since that would only be a waste of effort, as the proceedings of the Tahsildar cannot bind the civil Court.

6. This Court, therefore considers it appropriate to direct the Sub Judge, Perambalur to consolidate both O.S.No.150/2017 and O.S.No.196/2019, and list it for trial and dispose of them as early as possible. The petitioner is at liberty to agitate any issue pertaining to the action of the Tahsildar in sub-dividing the property in the civil Court. At any rate, the civil Court shall decide the issue pending before it, uninfluenced by any of the proceedings of the Tahsildar / first respondent in this regard.

7. The writ petition is accordingly disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To:

1.The Tahsildar,
Thittakudi Taluk,
Cuddalore District.

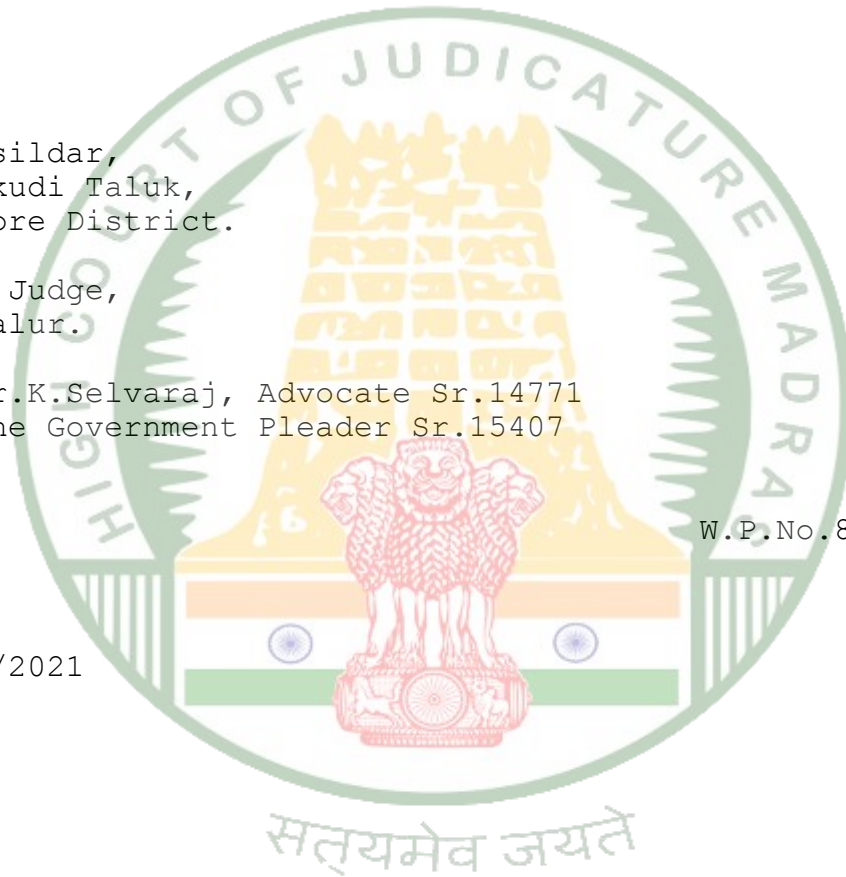
2.The Sub Judge,
Perambalur.

+1cc to Mr.K.Selvaraj, Advocate Sr.14771

+1cc to the Government Pleader Sr.15407

W.P.No.8129 of 2020

pmk[co]
srg 26/03/2021



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