



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2021

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THE HONOURABLE MR.JUSTICE R. SURESH KUMAR

W.P. No. 34351 of 2016 and  
W.M.P. No. 29612 of 2016

S.Rangasamy

... Petitioner

-vs-

1. The Revenue Divisional Officer,  
Sankari, Salem District.

2. The Tahsildar,  
Edappadi Taluk,  
Salem District.

3. Arumugam

4. Rajeswari

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus directing the respondents not to include the respondents 3 & 4 in patta connection with Survey Nos.387/3, 332/1A1, 372/1A2, 379/1B, 2B & 3, 387/1&2, 355/2, 5, 6, 8 & 9, situated at Poolampatty Village, Edappadi Taluk, Salem District, on the basis of Legal Heirship Certificate in Pa.Mu.4548/2013/A1 dated 10.03.2014 issued in favour of the respondents 3 & 4, by considering petitioner's representations dated 22.08.2016 and 07.09.2016.

For Petitioner : Mr.R.Marudhachalamurthy

For Respondents : Mr.Richardson Wilson  
Counsel for Govt. for R1 & R2

Mr.T.Murugamanickam  
Senior counsel for R3 & R4

O R D E R

The prayer sought for herein is for a Writ of Mandamus directing the respondents not to include the respondents 3 & 4 in patta connection with Survey Nos.387/3, 332/1A1, 372/1A2,



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379/1B, 2B & 3, 387/1&2, 355/2, 5, 6, 8 & 9, situated at Poolampatty Village, Edappadi Taluk, Salem District, on the basis of legal heirship certificate in Pa.Mu.4548/2013/A1 dated 10.03.2014 issued in favour of the respondents 3 & 4, by considering petitioner's representations dated 22.08.2016 and 07.09.2016.

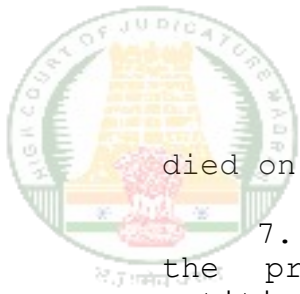
2. It is the case of the petitioner that, the petitioner is having lands at his native village called Odakattur, Poolampatty Village, Idappadi Taluk, Salem District in patta Nos.43, 497, 803, 947, 948 and 1125.

3. In this context, the private respondents 3 and 4 are claiming joint patta in the capacity as nephew and niece of the petitioner. However, this possession which has been claimed by the private respondents, was disputed by the petitioner and in this context, in order to prevent the alleged attempt made by the third and fourth respondents in getting the joint patta in their name in respect of the aforesaid patta numbers, which according to the petitioner belongs to the petitioner, the petitioner has given representations to the first respondent on 22.08.2016 and 07.09.2016. The said representations since have not been considered, the petitioner has approached this Court by filing the present Writ Petition.

4. Reiterating the aforesaid, the learned counsel appearing for the petitioner seeks indulgence of this Court to issue a suitable direction to the official respondents, especially the first respondent to pass orders on the representations of the petitioner dated 22.08.2016 and 07.09.2016 on merits and in accordance with law within a time frame that may be stipulated by this Court.

5. Per contra, Mr.T.Murugamanickam, learned Senior counsel appearing for the third and fourth respondents contended that, the third and fourth respondents are none other than the sister's children. In other words, the petitioner is the maternal uncle of the third and fourth respondents. In order to substantiate the said contention, the learned Senior counsel appearing for the private respondents has produced a copy of the wedding invitation of the wedding of the third respondent, where, the petitioner's name has been shown as if that, he only invited the invitees for the marriage to be solemnized in this regard. Therefore, by relying upon the copy of the said wedding invitation, the learned Senior counsel submits that, the petitioner is none other than the maternal uncle of the private respondents, i.e., R3 and R4.

6. In this context, the learned Senior counsel would further submit that, the private respondents have got Legal Heirship Certificate dated 16.04.2013, stating that, the third and fourth respondents alone are the legal heirs of the Venkatachalam, who



died on 05.05.1981.

7. Based on the said Legal Heirship Certificate obtained by the private respondents, it is the apprehension of the petitioner that, with the strength of the said Legal Heirship Certificate, the private respondents might influence the revenue authorities to get the joint patta in the name of the private respondents also along with the petitioner in the said patta numbers.

8. In that context, the petitioner has already filed a Civil Suit in O.S. No. 159 of 2015 before the concerned Court, seeking for a declaratory decree, declaring the Legal Heirship Certificate dated 16.04.2013 is null and void.

9. By citing the aforesaid development, the learned Senior counsel would further contend that, in the said Suit, the private respondents are the parties, where, the petitioner had already sought for declaring the Legal Heirship Certificate as null and void. Unless and until, the issue raised in the said Suit is decided by the Civil Court and the decree and judgment is passed in the said Civil Suit, the petitioner cannot seek for keeping aside of the Legal Heirship Certificate dated 16.04.2013 given by the revenue authorities for any lawful purpose.

10. Therefore, the learned Senior counsel would further contend that, the present attempt made by the petitioner by filing the present Writ Petition is nothing but creating a cause of action, simultaneously, apart from the Suit having been filed by the petitioner. Therefore, for all these reasons, this Writ Petition is liable to be rejected, he contended.

11. I have heard Mr. Richardson Wilson, learned counsel for the Government appearing for the first and second respondents, who would submit that, if at all any representation has been given by the petitioner on 22.08.2016 followed by the second representation / remainder dated 07.09.2016, where, the petitioner sought for some relief with regard to the issuance of patta or to cancel the patta or joint patta in the name of the private respondents, that issue can be decided by the concerned revenue authorities namely, first respondent / Revenue Divisional Officer in accordance with law especially under the provisions of the Tamil Nadu Patta Passbook Act, 1983 and in this case, after hearing the petitioner as well as the private respondents, final orders would be passed on the representations of the petitioner within a time frame that may be stipulated by this Court.

12. I have considered the said submissions made by the learned counsel appearing for the parties and have perused the



materials placed before this Court.

13. No doubt, there may be close relationship between the petitioner and the private respondents, whether it is accepted or disputed, that issue could not be gone into, at this stage by this Court in the present Writ Petition.

14. Be that as it may, insofar as the Writ Petition, it is only seeking for a Writ of Mandamus by way of direction to the first respondent / Revenue Divisional Officer to consider and pass orders on merits on the representations given by the petitioner on 22.08.2016 and 07.09.2016.

15. In this context, even though, the learned Senior counsel appearing for the private respondents has made the aforesaid arguments and seeks dismissal of this Writ Petition, this Court feels that, by giving a direction to the first respondent to decide the representations of the petitioner as stated above, this Court is not conferring any right on the petitioner with regard to the inter se dispute between the petitioner and the private respondents. Moreover, what is the right of the parties to claim legal heirship or to claim ownership of the property in question can very well be decided by the Civil Court, where the parties already been relegated by filing the Civil Suit referred to above.

16. Moreover, insofar as the granting of patta or cancellation of patta is concerned, that power is vested only with the revenue authorities within the meaning of various provisions under Tamil Nadu Patta Passbook Act. Therefore, in this context, it is the claim of the petitioner that, he is the exclusive owner of the property concerned as claimed by him as various patta numbers stated in his representations, hence it is for the petitioner to establish those aspects, when the representations are taken up for hearing by the first respondent / Revenue Divisional Officer and in this context, it is open to the private respondents to establish their rights over the property in question that they are entitled to have the joint patta.

17. Be that as it may, the said issue can be decided by the first respondent / Revenue Divisional Officer after giving a reasonable opportunity of being heard to both the parties and accordingly, a decision can be taken on the said representations within a time frame that may be stipulated by this Court.

18. In that view of the matter, this Court is inclined to dispose of this Writ Petition with the following orders:

"That there shall be a direction to the first respondent / Revenue Divisional Officer to



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consider and decide the representations dated 22.08.2016 and 07.09.2016 combinedly after hearing both the petitioner as well as the private respondents, i.e., R3 and R4 on merits and in accordance with law and accordingly, pass final orders thereon and communicate the same to both the parties within a period of twelve weeks from the date of receipt of a copy of this order."

19. With these directions, this Writ Petition is disposed of. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-  
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vji

To

1. The Revenue Divisional Officer,  
Sankari, Salem District.
2. The Tahsildar,  
Edappadi Taluk,  
Salem District.

+1cc to Mr.Zeenath Begam, Advocate, S.R.No.30883  
+1cc to R.Marudhachalamurthy, Advocate, S.R.No.30634  
+1cc to the Government Pleader, S.R.No.30852

W.P. No. 34351 of 2016  
and  
W.M.P. No.29612 of 2016

GJ(CO)  
CT(18/08/2021)