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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2021

CORAM:

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

W.P. No.17854 of 2021

K. Manoharan

... Petitioner

-Vs-

1. The District Collector,
Collectorate Office,
Kallakkurichi District.

2. The Tahsildar,
Kallakkurichi Taluk,
Kallakkurichi District

3. Mr. V. Durairaj

... Respondents

PRAYER: This Petition is filed under Article 226 of the Constitution of India, praying for the issue a Writ of Mandamus, directing the respondents 1 and 2 to consider the petitioner's applications dated 28.11.2019 and 24.09.2020 for sub-division of lands and issue separate patta in favour of the petitioner for the lands measuring 0.08 cents in Survey No.245/3 and 0.56 cents in Survey No.237/10 totally measuring 0.64 cents situated at Prithivimangalam Village, Kallakkurichi Taluk within the time to be stipulated by this Hon'ble High Court and Pass orders accordingly.

For Petitioner : Ms. Divyapreathika
For Mr.R. Bharath Kumar

For Respondents 1&2 : Mr. Yogesh Kannadasan
(Government Advocate)

For Respondent-3 : No Appearance



O R D E R

The relief sought for in this writ petition is for a direction to the respondents 1 and 2 to consider the petitioner's applications dated 28.11.2019 and 24.09.2020 for sub-division of lands and issue separate patta in favour of the petitioner for the lands measuring 0.08 cents in Survey No.245/3 and 0.56 cents in Survey No.237/10 totally measuring 0.64 cents situated at Prithivimangalam Village, Kallakkurichi Taluk, Kallakkurichi District, within the time to be stipulated by this Hon'ble High Court and Pass orders accordingly.

2.The learned counsel for the petitioner would submit that the petitioner herein has purchased the property measuring to an extent of 0.08 cents in Survey No.245/3 and 0.56 cents in Survey No.237/10 totally measuring to an extent of 0.64 cents situated at Prithivimangalam Village, Kallakkurichi Taluk, Kallakkurichi District from one Mr. Abubakkar and others through their power agent, vide Sale Deed in Document No.1551/2000 dated 19.07.2000. Earlier, as there was a dispute with respect to the land measuring about 1.88 acres in Survey No.237/10 in the said property between the 3rd respondent and one Mr. Abubakker and others, which turned into filing of suits by them. As against the concurrent decisions of the Courts below, the said Abubackker and others filed a Second appeal, the respective parties therein had settled the issue out of the Court, based on the settlement arrived between the parties wherein apart from the total extent of 1.88 acres in the said Survey No.237/10, the said Abubackker and others have been allotted to the extent of 56 cents and the remaining extent of 1.32 acres was allotted to the 3rd respondent herein. The said compromise memo was duly recorded by this Hon'ble Court vide order dated 18.04.2000.

3. It has been further submitted that after verification of the records, the petitioner has purchased the said land and from the date of purchase, he is in possession and enjoyment of the said property. Subsequent to the purchase of the land, the name of the petitioner was included in the Joint Patta No.1695 with the 3rd respondent herein. However, the petitioner made an application dated 28.11.2019 to the respondents 1 and 2 seeking for sub-division of the said lands and to issue a separate patta in his name, after remitting the necessary fee as demanded by the Revenue Officials. Even after submitting the application dated 28.11.2019, there is no response nor reply from the side of the respondents 1 and 2. Hence, the petitioner has sent a representation dated 24.09.2020 to the 2nd respondent and his sub-ordinates concerned to consider his representation. As there



is no response on the side of the respondents 1 and 2, the petitioner has made another application dated 24.09.2020 along with necessary fee to the 2nd respondent. Even filing the application dated 24.09.2020 for the 2nd time and despite many representations dated 01.02.2021, 08.02.2021 and 15.02.2021 to the 1st respondent and reminder letter dated 29.07.2021, the respondents have not given any response to the petitioner herein on his representations and they became futile.

4. It has been further submitted that 3rd respondent has been making frivolous objection for sub-division of the lands and to issue Patta with respect to the lands in Survey Nos.237/10 citing some irrelevant pending suit. While the earlier vendor had already entered into a compromise memo and the same was recorded by this Hon'ble High Court in S.A. No.1281 of 1991 with regard to the said property, the respondents 1 and 2 are being idle to consider the applications of the petitioner herein. Hence, the petitioner, who has no other efficacious and alternative remedy except to approach this Hon'ble Court by invoking Article 226 of Constitution of India, has filed the present Writ petition for issuance of Writ of Mandamus directing the respondents 1 and 2 to consider the petitioner's application dated 28.11.2019 and 24.09.2020 for sub-division of lands and issue separate patta in favour of the petitioner for the said property.

5. The learned Government Advocate would submit that the petitioner has purchased the said property after verification the encumbrance of the property as there was a dispute in the property and the same was settled between the parties out of the Court by way of compromise memo. The same was recorded by this Court in S.A. No. 1281 of 1991 by order dated 18.04.2000. Hence, this Court may be pleased to direct the respondents 1 and 2, to consider the Applications dated 28.11.2019 and 24.09.2020 as prayed for.

6. Heard, the learned Counsel for the petitioner and the learned Government Advocate for the respondents 1 and 2 as well as perused the material available on record.

7. On a perusal of the records, it seems that the petitioner has purchased the said property by virtue of Sale deed in Document No.1551/2000 dated 19.07.2000. Hence, the respondents 1 and 2 are directed to survey the said property after having verified the related documents of the property and pass appropriate orders on his applications dated 28.11.2019 and 24.09.2020 within a period of 12 weeks from the date of receipt of copy of this order.



8. With the aforesaid directions, this Writ petition is allowed. Consequently, connected miscellaneous petition is closed if any. No costs.

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Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

Lbm

To:

1. The District Collector,
Collectorate Office,
Kallakkurichi District.
2. The Tahsildar,
Kallakkurichi Taluk,
Kallakkurichi District.

+1cc to M/s.R.Bharath Kumar, Advocate, S.R.No.42869

+1cc to the Government Pleader, S.R.No.43042

W.P. No.17854 of 2021

RR(CO)
SU(17/09/2021)