



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2021

CORAM:

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P. NO. 18611 OF 2021

K.P.Pandian

... Petitioner

-Vs-

1. The Tahsildar,
Office of The Tahsildar,
Kallakurichi, Kallakurichi District.
2. The Head Surveyor,
Office of The Head Surveyor,
Kallakurichi, Kallakurichi District.
3. The Surveyor,
Office of The Surveyor,
Kallakurichi, Kallakurichi District.

... 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 to forthwith effect sub-division of the lands of the Petitioner measuring 32 Cents in Survey No 112/2, at Vinaitheerthapuram Village, Kallakurichi Taluk, Kallakurichi District, and issue separate Patta to the Petitioner by considering and passing necessary orders on the application of the Petitioner dated 19.7.2021 and pass orders accordingly.

For Petitioner :: Mr.K.Selvaraj

For Respondents :: Mr.K.M.D.Muhilan
(Government Advocate)

ORDER

The relief sought for in this writ petition is for a direction to the Respondents to forthwith effect sub-division of the lands of the Petitioner measuring 32 Cents in Survey No 112/2, at Vinaitheerthapuram Village, Kallakurichi Taluk,



Kallakurichi District, and issue separate Patta to the Petitioner by considering and passing necessary orders on the Application of the Petitioner dated 19.7.2021 and pass orders accordingly

WEB COPY

2. The learned counsel for the petitioner would submit that the Petitioner has purchased land measuring 32 Cents in Survey No.112/2, at Vinaitheerthapuram Village, Kallakurichi District, by a Registered Sale Deed 29.3.2012, in document No. 1432 of 2012 from one K.Ramesh and K. Periasamy. In fact, the said Vendor of the Petitioner, namely, K Ramesh, had purchased the said property by a Sale Deed dated 11.4.2007 from one Kandasamy Gounder, by a Document No.1037 of 2007. The said Kandasamy Gounder had purchased the said property from one Athiyappa Gounder by a Registered Sale Deed dated 23.4.2003 in Document No.725 of 2003. The 2nd Vendor of the Petitioner namely, K Periasamy has purchased the said property by a Registered Sale Deed dated 27.7.2010 in Document No.3653 of 2010.

3. It has been further submitted by the learned counsel for the petitioner that the brother of the said Kandasamy Gounder, namely, K. Periasamy has filed a Civil Suit against Athiyappa Gounder and his brother Kandasamy Gounder in OS No 318 of 2003 on the file of the II Additional District Munsif Court, Kallakurichi, claiming that he is the absolute owner of the entire extent of 6.86 Acres of lands in Survey No.112/2. After an elaborate trial, the Trial Court has dismissed the suit on 13.07.2006 stating that the land measuring 32 Cents out of 6 Acres and 86 Cents in Survey No. 112/2 belongs to Athiyappa Gounder, having purchased the same by way of a Registered Sale Deed on 9.3.1971. Therefore, the Plaintiff has no title over the 32 Cents of lands in Survey No 112/2, and it belongs absolutely to Kandasamy Gounder, the 2nd Defendant, who is the parent-Vendor of the Petitioner herein. Being aggrieved by the aforesaid dismissal order, the said K Periasamy has filed an Appeal Suit in A.S No 125 of 2006 on the file of the Sub-Court, Kallakurichi. After hearing both sides, the First Appeal was also dismissed on 26.7.2010. The Judgment and Decree in A.S No 125 of 2006 has become final.

4. The learned counsel for the petitioner would further submit that the said K Periasamy has submitted an Application before the Revenue Divisional Officer to cancel the Joint Patta in Survey No 112/2 against the decisions of the Civil Courts and to retain his name for the entire property. The Petitioner has also participated in the enquiry and submitted all the Documents and the Court Judgments and Decrees before the Revenue Divisional Officer. After an elaborate enquiry, the Revenue Divisional Officer, by an order dated 13.2.2017 has rejected the



claim of the said K.Periasamy in Survey No 112/2. Being aggrieved by order of the Revenue Divisional Officer, K Periasamy has filed a Revision before the District Revenue Officer, Kallakurichi wherein the Petitioner has also participated in the Enquiry before the District Revenue Officer and submitted all the Documents and the Court Judgments and Decrees before District Revenue Officer. After an elaborate enquiry, the District Revenue Officer by order dated 31.12.2020 has rejected the Revision Petition filed by K Periasamy for grant of separate Patta in respect of Survey No.112/2.

5. It has further been submitted that the petitioner has purchased the land measuring 32 Cents in Survey No 112/2, from the real owners/vendors as per Judgment and Decree passed by the Civil Courts and the same was also accepted by the Revenue Divisional Officer and District Revenue Officer. Under such circumstances, the petitioner has submitted an application dated 19.7.2021 to the 1st Respondent requesting to sub-divide the land measuring 32 Cents from the original Survey No.112/2, and to issue separate Patta to the petitioner herein. Though the 1st Respondent has received the same, the 1st Respondent has not processed the said Application of the Petitioner for more than one month without any justification and for a mala-fide reason. The actions of the 1st Respondent is totally arbitrary, unreasonable and against the Title Deeds of the Petitioner herein and the Judgment and Decree in O.S.No 318 of 2003 and the Judgment and Decree in A.S.No. 125 of 2006. It is also against the order of the Revenue Divisional Officer dated 13.2.2017 and the order of the District Revenue Officer dated 31.12.2020. Therefore, the petitioner is left with no other alternative and efficacious remedy except to approach this Court by invoking the jurisdiction of this Court under Article 226 of Constitution of India. Hence, this Writ petition.

6. The learned Government Advocate appearing for the respondents would submit that the application has been filed by the petitioner herein only on 19.07.2021. However, the respondents may be directed to consider his application within a time frame as fixed by this Court.

7. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents as well as perused the material available on records.

8. Having considered the facts and circumstances of the case and submissions made by the learned counsel on either side, the 1st respondent is directed to consider and pass appropriate orders on the application dated 19.07.2021 filed by the petitioner herein after affording sufficient opportunity to the



petitioner herein within a period of four months from the date of receipt of copy of this order in accordance with law.

9. In the result, the Writ petition is disposed of accordingly. Consequently, connected miscellaneous petition is closed if any. No Costs.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

Lbm

To:

1. The Tahsildar,
Office of The Tahsildar,
Kallakurichi, Kallakurichi District.
2. The Head Surveyor,
Office of The Head Surveyor,
Kallakurichi, Kallakurichi District.
3. The Surveyor,
Office of The Surveyor,
Kallakurichi, Kallakurichi District.

+1cc to Mr.K.Selvaraj, Advocate, S.R.No.44839

+1cc to the Government Pleader, S.R.No.45506

W.P. No.18611 of 2021

KG(CO)
RLP(02/12/2021)