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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2021

CORAM

THE HON'BLE MR.JUSTICE R. SURESH KUMAR

Writ Petition No.32247 of 2018

K.N.Raghu

...Petitioner

-Vs-

1.The District Collector  
Krishnagiri District  
Krishnagiri.

2.The District Revenue Officer  
Krishnagiri District  
Krishnagiri.

3.The Sub-Collector  
Hosur, Krishnagiri District.

4.The Tahsildar  
Hosur Taluk, Krishnagiri District.

5.M.Rukmini

...Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondents 1 to 4 to conduct enquiry and cancel the patta in Patta No.538 and issue joint patta in the name of legal heirs of Late M.Muniyappa for the property at S.No.18/4P, Kothapalli Village, Hosur Taluk, Krishnagiri District by considering the petitioner's representation dated 23.04.2018.

For Petitioners : Mr.R. Jayaprakash

For Respondents : Mr.Richardson Wilson,  
Government Counsel  
- for RR 1 to 4  
Mr.I.Abrar Md.Abdullah - for R5



## O R D E R

The prayer sought for herein is for a Writ of Mandamus directing the respondents 1 to 4 to conduct enquiry and cancel the patta in Patta No.538 and issue joint patta in the name of legal heirs of Late M.Muniyappa for the property at S.No.18/4P, Kothapalli Village, Hosur Taluk, Krishnagiri District by considering the petitioner's representation dated 23.04.2018.

2. The case of the petitioner is that, the petitioner's grandfather one Muniyappa had purchased the land in Survey No.18/4P, Kothapalli Village, Hosur Taluk, Krishnagiri District to an extent of 4.24 Acres by way of a Sale Deed dated 04.06.1943 registered as Document No.2229 of 1943.

3. Therefore, the said property has become the joint property of the family of Muniyappa. However, the said Muniyappa died intestate leaving behind his four sons viz., Munisamy Reddy, Pappi Reddy, Rama Reddy and Narayana Reddy. Since all the four brothers are having equal shares, partition had to be undertaken, but no such partition has been effected. When that being so, the eldest brother Munisamy Reddy seems to have entered into an agreement with the fifth respondent to sell 4 acres out of the 4.24 acres of the property to and in favour of the fifth respondent.

4. However, subsequently it seems that, even the eldest brother Munisamy Reddy did not come forward to execute the sale deed and in this context, it seems that the fifth respondent had approached the Civil Court and after getting a decree to that effect, the sale was effected between the eldest brother and the fifth respondent in respect of 4 acres of the land.

5. After the sale was effected and the sale deed was registered, on the strength of the same, in respect of the said 4 acres of land the fifth respondent seems to have approached the Revenue Authorities to get patta and on consideration of the title produced by the fifth respondent, the Revenue Authorities issued patta in respect of the said 4 acres in Patta No.538 to and in favour of the fifth respondent.

6. Subsequently only, the petitioner, who is one of the legal heir had come to know about the issuance of patta for the 4 acres of the total 4.24 acres of the property to and in favour of the fifth respondent. Therefore, according to the petitioner the patta has been illegally issued by the Revenue Authorities at the instance of the fifth respondent and therefore, in order to cancel the same, the petitioner has given a representation dated 23.04.2018 and since the same has not been considered so



far, the petitioner has approached this Court by way of the present writ petition with the aforesaid prayer.

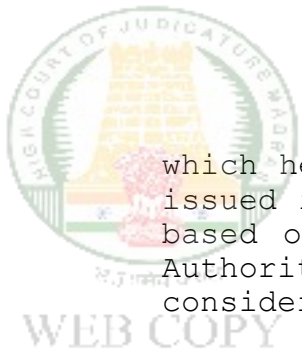
7. Reiterating the aforesaid facts, the learned counsel for the petitioner would submit that, if at all the Revenue Authorities wanted to issue patta in favour of the fifth respondent as claimed by her, before issuance of patta, since it is a joint family property of all the brothers ie., the legal heirs of the deceased Muniyappa and each

brother will have equal share of the property, notice should have been given to them as well as the legal heirs like the petitioner and without hearing them ie., the co-owners or co-sharers of the property concerned, the Revenue Authorities ought not to have issued patta in favour of the fifth respondent. Therefore, the same is illegal patta and hence it has to be cancelled and the representation dated 23.04.2018 given by the petitioner can very well be considered and orders to that effect can be directed to be passed for cancelling the patta issued in favour of the fifth respondent, he contended.

8. Per Contra, Mr. Richardson Wilson, learned counsel for the Government appearing for the official respondents 1 to 4 would submit that, assuming that the total land of 4.24 acres originally belongs to Muniyappa and he died intestate leaving behind four sons, without making any arrangement or partition and therefore, all the four brothers might have equal share and even in that case, it is for the other brothers to agitate the issue in the manner known to law before the competent Civil Court against the Sale agreement entered into by way of creation of third party rights, wherein the elder brother bequeathed the property in favour of the fifth respondent through a valid Sale Deed.

9. If at all the fifth respondent has purchased the property ie., major portion of the entire property by way of a valid registered sale deed and on that strength, if he approached the Revenue Authorities to get patta, based on the said title produced by the fifth respondent to the satisfaction of the Revenue Authorities, they acted upon and issued patta in favour of the fifth respondent.

10. Therefore, the learned counsel for the Government would submit that, in this context, if at all the petitioner has got any grievance with regard to the manner in which one of the legal heirs ie., the said Munisamy Reddy sold the major portion of the property including the shares of the other brothers to and in favour of the fifth respondent, it is for the petitioner to agitate the issue in the manner known to law by approaching the competent Civil Court to get a declaratory relief, without



which he cannot simply make a representation to cancel the patta issued in favour of the fifth respondent as the patta was issued based on the title produced to the satisfaction of the Revenue Authorities. Therefore, the present representation cannot be considered and no relief can be granted, he contended.

11. I have considered the submissions made by both the learned counsel and also perused the materials placed on record.

12. As has been rightly pointed out by the learned counsel for the Government, the petitioner cannot simply agitate the issue by making a representation to cancel the patta issued in favour of the fifth respondent. The reason being that, the fifth respondent having purchased the property through valid sale consideration or otherwise by a registered sale deed and on production of the same by establishing her title only, obtained patta from the Revenue Authorities. Therefore, it cannot be construed as illegal patta in the eye of law as of now, unless and until the petitioner and the other co-sharers approach the Civil Court and get declaratory relief in their favour.

13. Therefore, as of now the petitioner's plea to cancel the patta issued in favour of the fifth respondent cannot be entertained by the Revenue Authorities and therefore, in that regard no mandamus can be issued in favour of the petitioner. Hence, the writ petition fails and the same is dismissed. No costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

KST

To

1.The District Collector  
Krishnagiri District  
Krishnagiri.

2.The District Revenue Officer  
Krishnagiri District  
Krishnagiri.

3.The Sub-Collector  
Hosur, Krishnagiri District.



4.The Tahsildar

Hosur Taluk, Krishnagiri District.

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+1 cc to Mr.R.Jayaprakash,Advocate Sr.No.28256.

+1 cc to Government Pleader, Sr.No.28442.

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RLD[co]

NSK 20/07/2021