



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.02.2021

CORAM

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.(MD) No.2652 of 2021

and

W.M.P.(MD) No.2195 of 2021

WEB COPY

R.Vijay Aravind

.. Petitioner

vs

1.The District Collector,
Madurai District,
Madurai.

2.The Tahsildar,
Vadipatti Taluk,
Madurai District.

3.The Village Administrative Officer,
Katchikatti Village,
Vadipatti Taluk,
Madurai District.

4.The Village Administrative Officer,
Veeralipatti Village,
Vadipatti Taluk,
Madurai District.

5.Pounroja

6.Poonkodi

.. Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, forbearing the 2nd respondent to include the respondents 5 and 6 herein as joint patta holder in respect of properties comprised in Survey No.626, 460/1, 629/1A, 630/1A,646/2C, 629/1B, 705/1 and 706 in Katchaikatti Village, Vadipatti Taluk, Madurai District and property in Survey No.179/2 and 179/4 in Viralipatti Village, Vadipatti Taluk, Madurai District without giving opportunity to the petitioner as per the procedure contemplated in Tamilnadu Patta Pass Boock Act, 1983.

For Petitioner : Mr.Suriyanarayanan

For R1 to R4 : Mr.A.Thiyagarajan
Government Advocate

ORDER

The case of the petitioner is that the property in S.Nos.626, 460/1, 629/1A, 630/1A, 646/2C, 629/1B, 705/1, 706, 179/2 and 179/4 situated at Katchaikatti Village and Viralipatti Village, Vadipatti Taluk, Madurai District belong to his grandfather, Ramasamy.



According to the petitioner, his grandfather died leaving behind his wife, Lakshmiammal, his son Rengaraj and his daughters, Pounroja and Poonkodi, respondents 5 and 6 herein, as his legal heirs. The respondents 5 and 6 have married prior to 1989 and they were given sufficient sreedhanam at the time of their marriage. Therefore, according to the petitioner, the respondents 5 and 6 have no right over the subject properties, as it is ancestral one.

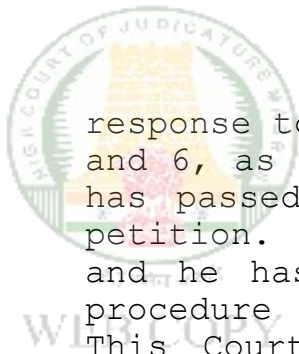
2.The petitioner's father and his mother had jointly enjoyed the property without any interference till their life time. The petitioner's father died intestate in the year 2017 and his grandmother also died in the year 2020. Before the death, the petitioner's grandmother has executed a Will, dated 27.11.2020 in the name of the petitioner and his brother.

3.While so, without disclosing the above, the respondents 5 and 6 have given their objection application before the 2nd respondent to include their names as joint pattadhars in respect of the above mentioned properties. After knowing the aforesaid fact, the petitioner has appeared before the authority in order to submit his objection for him to take into consideration his objection before passing any orders in the objection application submitted by the respondents 5 and 6. According to the petitioner, the 2nd respondent was not inclined to take his objection seriously and in that regard a representation was made by the petitioner on 04.02.2021.

4.The ultimate grievance of the petitioner is that he has not been given proper opportunity to put-forth his objection and the attitude of the 2nd respondent in this regard amounted to violation of mandatory procedure contemplated in the Tamilnadu Patta Passbook Act, 1983. Therefore, the petitioner is before this Court seeking issuance of writ of mandamus restraining the 2nd respondent from passing any order on the objection application of the respondents 5 and 6, without giving due opportunity to him.

5.From the above narrative, the grievances of the petitioner are that the 2nd respondent has not given sufficient opportunity to him to raise his objection before him, when the objection application of the respondents 5 and 6 was taken up for final consideration. However, what this Court is unable to understand is that nothing specifically has been stated in the affidavit filed in support of this writ petition to show as to how the 2nd respondent is attempting to ignore the so called objection submitted by the petitioner and what kind of attitude exhibited by the 2nd respondent against the interest of the petitioner.

6.Be that as it may, this Court is unable to appreciate as to how the petitioner could presume that his objection would be completely ignored, when the final order is yet to be passed in



response to the objection application submitted by the respondents 5 and 6, as nothing is there on record to show that the 2nd respondent has passed any order on the subject matter espoused in this writ petition. The petitioner, in fact, has come up with bald averments and he has presumed that the 2nd respondent would not follow the procedure contemplated in the Tamilnadu Patta Passbook Act, 1983. This Court certainly cannot act on the basis of the said bald averments and self-serving submission of the petitioner and injunct the 2nd respondent from passing any order in respect of the objection application submitted by the respondents 5 and 6.

7.This Court is of the view that there is no cause of action for the petitioner to approach this Court with this kind of prayer as sought in this writ petition and therefore, in the absence of any cause of action, compelling this Court to act at the instance of the petitioner, a writ of mandamus would not lie.

8.In the above circumstances, the Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CSIII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The District Collector,
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Madurai District.

+1 CC to M/s.R.SURYA NARAYANAN, Advocate (SR-4769[F] dated
12/02/2021)

+1 CC to M/s.SPL GP (SR-5136[F] dated 15/02/2021)

W.P. (MD)No.2652 of 2021
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SV2 (CO)
KB(10.03.2021) 4P 7C