



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.04.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD)No.17439 of 2020

A.Manickam

...Petitioner

Vs.

1.The Revenue Divisional Officer,
Pudukottai Revenue Division,
Pudukottai,
Pudukottai District.

2.The Tahsildar
Alangudi Taluk,
Pudukottai District.

3.Ganesan

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first respondent to remove the name of the third respondent herein, entered along with the petitioner's name in the approximate patta bearing No.140 in respect of the property bearing S.No.132/21 to an extent of 00.3.01 situated at Odappaviduthi Village No.32, Alangudi Taluk, Pudukottai District, by the second Respondent herein based on the petitioner's representation, dated 07.09.2020 made by the first respondent.

For Petitioner : Mr.M.Boominathan

For Respondents 1 & 2 : Mr.S.Angappan
Government Advocate

ORDER

This Writ Petition has been filed for the issue of a Writ of Mandamus, directing the first respondent to remove the name of the third respondent from the joint patta issued with respect to the subject property by considering the representation made by the petitioner, dated 07.09.2020.

2. The case of the petitioner is that he is in possession and enjoyment of the subject property and considering his right over



the property, the second respondent issued a patta in his favour in the year 1985.

3.The grievance of the petitioner is that the third respondent, who is his brother was permitted to put up a structure inside the property and based on the same, he had applied before the second respondent for joint patta and joint patta was also issued in the year 1993. Aggrieved by the same, the petitioner made a representation before the first respondent to cancel the name of the third respondent in the patta. Since the same was not considered, the present Writ Petition has been filed before this Court seeking for appropriate directions.

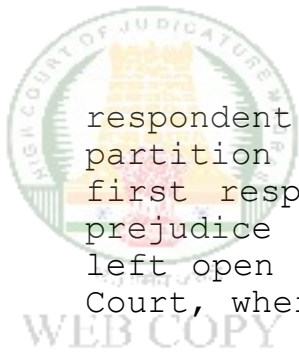
4.The third respondent has filed a counter affidavit in this case. It is seen from the counter affidavit that the sister of the petitioner has filed a partition suit in O.S.No.31 of 2020 before the District Munsif Court, Alangudi, wherein, she has claimed for 1/7th share in the suit property. One of the property which is the subject matter in the suit is the property that is involved in the present Writ Petition and it has been shown as the 9th item in the schedule of properties. According to the third respondent, the petitioner, who is fully aware about the pendency of the suit, concealed the same and has approached this Court with unclean hands.

5.The second respondent has filed a counter affidavit. In the counter affidavit, a stand has been taken by the second respondent to the effect that during the natham settlement that was conducted during the year 1992, it was seen that the property was jointly enjoyed by the petitioner and the third respondent and therefore a joint patta was issued in both their names. It is further stated in the counter affidavit that the property has also been sub divided and separate pattas have been issued in favour of the petitioner and the third respondent for the sub-divided property through proceedings, dated 12.08.1999.

6. In view of the same, the second respondent has taken a clear stand that nothing further survives to be decided in this Writ Petition.

7.In the considered view of this Court, there is a substantial partition suit that is pending before the concerned Civil Court and the subject property has been shown as item No.9 in the schedule of properties. That apart, a specific stand has been taken by the second respondent to the effect that during the natham settlement undertaken in the year 1992, the concerned Authority found that the properties were jointly enjoyed by the petitioner and the third respondent and consequently a joint patta was also issued.

8. In view of the above, no useful purpose will be served in directing the first respondent to consider the representation made by the petitioner at this stage. The petitioner and the third



respondent will have to necessarily wait for the result of the partition suit initiated by their sister. If in the meantime, the first respondent proceeds to consider the representation, it will prejudice the rights of the other legal heirs. Therefore, it is left open to the parties to agitate all the issues before the Civil Court, where the partition suit is pending.

9. This Writ Petition stands disposed of accordingly. No costs.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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 Revenue Divisional Officer,
Pudukottai Revenue Division,
Pudukottai,
Pudukottai District.

2.The Tahsildar
Alangudi Taluk,
Pudukottai District.

+1 CC to M/s.AGP (SR-15989[F] dated 16/04/2021)

**W.P. (MD) .No.17439 of 2020
15.04.2021**

RK (26.04.2021) 3P 4C