



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.02.2021**
CORAM

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

WEB COPY

W.P.(MD) Nos.17895, 17901, 17903, 17907, 17913 & 17917 of 2020
and

W.M.P.(MD) Nos.14924, 14925, 14928, 14930, 14931, 14936, 14937,
14940, 14942 & 14945 of 2020

R.Veerapandian ... Petitioner in WP(MD)No.17895/ 2020
B.Sakthivel Rajaprabhu ... Petitioner in WP(MD)Nos.17901,17903
and 17907 / 2020
T.Karuppaiah ... Petitioner in WP(MD). 17913/ 2020
R.Selvamaniammal ... Petitioner in WP(MD). 17917/ 2020

- Vs. -

- 1.The District Collector
Sivagangai District, Sivagangai.
- 2.The District Revenue Officer,
Sivagangai District, Sivagangai.
3. The Special Tahsildar
G.R Scheme (Maintenance),
Singampunari Taluk,
Sivagangai District, Sivagangai.
4. K.Ganesan
5. K.Aswin Prabhu
6. Arunprabhu ... Respondents in WP(MD). 17895/ 2020

- 1.The District Collector
Sivagangai District, Sivagangai.
- 2.The District Revenue Officer
Sivagangai District, Sivagangai.
3. The Special Tahsildar
G.R Scheme (Maintenance),
Singampunari Taluk,
Sivagangai District, Sivagangai.



4. K.Ganesan
5. Shankari

...Respondents in WP (MD) Nos.17901,17903,17907
and 17913 of 2020

- 1.The District Collector
Sivagangai District, Sivagangai.
- 2.The District Revenue Officer
Sivagangai District, Sivagangai.
- 3.The Special Tahsildar
G.R Scheme (Maintenance),
Singampunari Taluk,
Sivagangai District,Sivagangai.

4. K.Ganesan
5. K.Aswin Prabhu
6. Arunprabhu
7. Nagarathinam
8. B.Karuppaiah
9. B.Sakthivel Rajaprbhu ... Respondents in WP(MD). 17917/ 2020

PRAYER in WP(MD). 17895/ 2020 :

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in SR.No.437 and 438/2020 dated 28.09.2020 passed by the 3rd respondent in respect of GR Survey No.562/46 and quash the same as illegal and consequently to direct 1 to 3 respondents to maintain the joint patta and conduct a fresh enquiry to grant patta in favour of the petitioner.

Prayer in WP(MD). 17901/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, call for the records pertaining to the impugned order in Tha.Va.Ka.No.50/2020(4) dated 3.10.2020 passed by the 3rd respondent in respect of GR Survey No.204/311 and quash the same as illegal and consequently to direct 1 to 3 respondents to maintain the joint patta and conduct a fresh enquiry to grant patta in favour of the petitioner.

Prayer in WP(MD). 17903/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, call for the records pertaining to the impugned order in Tha.Va.Ka.No.52/2020 dated 3.10.2020 passed by the 3rd respondent in respect of GR Survey No.204/277 and 279 and quash the same as illegal and consequently to direct 1 to 3 respondents to maintain



the joint patta and conduct a fresh enquiry to grant patta in favour of the petitioner.

Prayer in WP(MD). 17907/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, call for the records pertaining to the impugned order in Tha.Va.Ka.No.66/2020 dated 3.10.2020 passed by the 3rd respondent in respect of GR Survey No.204/281 and quash the same as illegal and consequently to direct 1 to 3 respondents to maintain the joint patta and conduct a fresh enquiry to grant patta in favour of the petitioner.

Prayer in WP(MD). 17913/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, call for the records pertaining to the impugned order in Tha.Va.Ka.No.54/2020 dated 3.10.2020 passed by the 3rd respondent in respect of GR Survey No.204/278 and quash the same as illegal and consequently to direct 1 to 3 respondents to maintain the joint patta and conduct a fresh enquiry to grant patta in favour of the petitioner.

Prayer in WP(MD). 17917/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, call for the records pertaining to the impugned order in Tha.Va.Ka.No.50/2020(5) dated 3.10.2020 passed by the 3rd respondent in respect of GR Survey No.204/312 and quash the same as illegal and consequently to direct 1 to 3 respondents to maintain the joint patta and conduct a fresh enquiry to grant patta in favour of the petitioner.

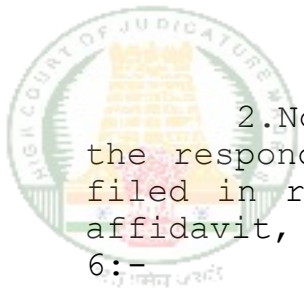
For Petitioner : Mr.S.Muthuraman
in all Writ Petitions

For R1 to R3 : Mr.C.Ramesh
Special Government Pleader
in all Writ Petitions

For R4 to R6 : Mr.N.Dilipkumar
in all Writ Petitions

COMMON ORDER

All these writ petitions have been filed against the order of the 3rd respondent dated 28.09.2020 and 03.10.2020 for transfer of patta adverse to the interest of the petitioners.



2. Notice was ordered in these writ petitions and on behalf of the respondents 1 to 3 herein, a common counter affidavit has been filed in respect of all the writ petitions. In the common counter affidavit, the following has been stated in paragraph Nos.4 to 6:-

"4. It is submitted that originally Writ mentioned and other properties belonged to one Karuppiyah Pillai and after the death of the Karuppiyah Pillai their legal heirs of 1.KR.Ganesan, 2.KR.Rajamanickam, 3.KR.Thiayagarajan, 4.KR.Balakrishnan of Singampunari executed a unregistered partition deed in the year 1994 among themselves and they are in possession and enjoyment of the same for past several years and thereafter the petitioners gave the application to me to issue patta in respect of the properties already under in their enjoyment by unregistered partition deed. Subsequently, the writ petitioners gave the application not to grant patta to each other and grant patta for themselves vide their representation dated 04.06.2020, 29.06.2020, 12.08.2020 and 13.08.2020 etc respectively. I initiated to all the petitioners vide notice dated 11.09.2020 fixing the date of enquiry on 18.09.2020 to give the written application in respect of the separate possession and enjoyment of the properties because the writ petitioners and other persons objected to each other to grant patta, in the meanwhile, on 04.08.2020, I have informed the petitioners to give the written application about their earlier oral/unregistered partition made among themselves. After the elaborate enquiry conducted on 18.09.2020 with prior notice on 11.09.2020 by me among themselves. I come to the conclusion that in respect of the properties which is under whom in their enjoyment and possession, issued patta on name transfer after passed orders on 28.09.2020 and 03.10.2020.

5. It is submitted that as per the revenue records, I issued patta (name transfer) in favour of the writ petitioners and other persons, the writ petitioners also got the patta in favour of themselves for 1.S.No.557/2F to T.Karuppiyah, 2.S.No.557/20D2 to KR.Rajamanickam (father of Veerapandian) and 3.S.No.210/10A1, 210/10A2, 210/1 to B.Sakthivel Rajaprabhu and his family members. Suppression of the same they all claiming the rights in respect of S.No.204/277, 204/278, 204/279, 204/281, 204/311, 204/312 in Singampunari South Revenue Village, S.No.562/45&562/46 in Singampunari North Revenue Village wherein patta was issued with for the private respondents. Under the writ of certiorarified mandamus, the ownership of land/title cannot decide the rights of the petitioners for properties under Article 226 of the Constitution of India. Hence, the writ petitions may be dismissed directing the parties concerned to approach the competent authority under the scheme.



6.It is submitted that after elaborate enquiry conducted by me, issued patta on name transfer in favour of those who have been in possession of the property. If they are object to issue patta in favour of the beneficiaries, the aggrieved party they approach to the Appellate authority, ie., Assisstant Settlement Officer, (South) Chennai (during G.R.Scheme) or Revenue Divisional Officer concerned (after G.R.Scheme). If they are having any right in respect of S.No.204/277, 204/278, 204/279, 204/281, 204/311, 204/312 of Singampunari South Revenue Village, S.No.562/45 & 562/46 of Singampunari North Revenue Village, they have to approach to the civil Court, claim their rights if so they advised. Patta transfer orders has been issued only in respect of those who are in possession of the property on enquiry and on field visit."

3.The above averments contained in the counter affidavit would clearly demonstrate that proper remedy for the petitioners is to approach the appellate authority under Ground Rent Scheme or before the civil Court concerned in order to vindicate their grievances. The writ jurisdiction of this Court cannot certainly be made available to these writ petitioners in view of the above averments. More over, the adjudication of the dispute would involve investigation of factual controversies that may arise in such consideration and therefore, the writ Court cannot undertake any resolution of factual disputes *qua* parties and in that context, the proper course remedy open to the petitioner is to avail the appeal remedy under the Ground Rent Scheme or to resort the civil remedy, which alone can provide them an effective remedy in regard to the subject issue.

4.For the above said reasons, all these writ petitions are dismissed as not maintainable with liberty to the petitioners to approach the appropriate appellate authority as stated in paragraph No.6 of the common counter affidavit as above or before the civil Court. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar



To

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The District Revenue Officer,
Sivagangai District,
Sivagangai.

3.The Special Tahsildar,
G.R.Scheme (Maintenance),
Singampunari Taluk,
Sivagangai District,
Sivagangai.

+6 CC to M/s.S.MUTHURAMAN, Advocate (SR-7024[F] dated 24/02/2021)

+1 CC to M/s.SPL GP (SR-7269[F] dated 25/02/2021)

+2 CC to M/s.N.DILIP KUMAR, Advocate (SR-7125 & 7127[F] dated 25/02/2021)

W.P. (MD) Nos.17895, 17901, 17903, 17907,
17913 & 17917 of 2020
24.02.2021

MM

MS/24.05.2021/6P.13C