



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.10.2021

CORAM

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P. (MD)No.17867 of 2021

Perai Nagaserivilai Mahadevar Temple,
Rep.by its President,
Thavathiru Swami Saidhanyananda Ji Maharaj.

... Petitioner

Vs.

1.The District Collector,
Kanyakumari District,
At Nagercoil.

2.The Tahsildar,
Thiruvattaru Taluk,
Kanyakumari District.

3.Mathur Madam,
Rep. by its President,
Subramaniyar, S/o.Sankaranayanaru,
Aruvikarai Post,
Kanyakumari District.

... Respondents

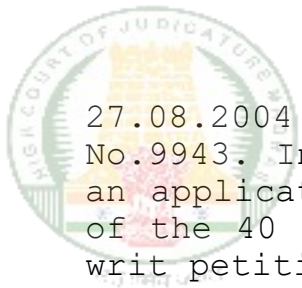
Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the official respondents to issue separate patta for the property in Survey No.775/8B1A, Thiruvattaru Village, Kalkulam Taluk, Kanyakumari District to an extent of 40 cents in the name of the petitioner based on the online application No.2021/0105/30/191955 dated 19.08.2021 within the period stipulated by this Court.

For Petitioner : Mr.Ananth C.Rajesh
For Respondents : Mr.K.S.Selva Ganesan,
Counsel for State for R1 and R2

O R D E R

The petitioner seeks a separate patta for the property bearing Survey No.775/8B1A, Thiruvattaru Village, Kalkulam Taluk, Kanyakumari District of an extent of 40 cents.

2.The petitioner states that the above mentioned property is owned by the Temple. The petitioner refers to and relies upon judgments and decrees in proceedings bearing O.S.No.437 of 1976 and O.S.No.305 of 1981. According to the petitioner, both these proceedings culminated in appellate orders in favour of the petitioner. In addition, the petitioner refers to a gift deed dated



27.08.2004 in favour of the petitioner-temple as also joint Patta No.9943. In these facts and circumstances, the petitioner submitted an application dated 19.08.2021 seeking a separate patta in respect of the 40 cents of land owned by the petitioner-temple. The present writ petition is filed for such purpose.

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3.Mr.K.S.Selva Ganesan, learned counsel for the State, accepts notice on behalf of respondents 1 and 2. He submits that the joint pattadars may be put on notice before a decision is taken on the petitioner's application.

4.The petitioner has enclosed a copy of gift deed dated 27.08.2004 in favour of the petitioner-temple. The said settlement deed *prima facie* indicates that the petitioner owns about 40 cents in the relevant survey number. The petitioner has also enclosed a copy of Patta No.9943. The said patta pertains to the property bearing Survey No.775/8B1A of an extent of 0.41.55 Ares, which roughly corresponds to 1 acre and 2 cents. The patta is in the name of eight persons including the petitioner. Consequently, notice should be issued to the other seven joint pattadars before a decision is taken on the petitioner's application. In addition, the third respondent herein should also be put on notice.

5.Subject to the above observations but without entering any findings on the merits of the matter, the second respondent herein is directed to consider the petitioner's application dated 19.08.2021 and dispose of the same by a reasoned communication after providing a reasonable opportunity to the petitioner, the joint pattadars under Patta No.9943 and the third respondent herein. On account of the fact that the second respondent has been directed to provide a reasonable opportunity to the third respondent before taking a decision, the writ petition is disposed of without notice to the third respondent. Such reasoned order shall be issued within a period of three months from the date of receipt of a copy of this order. There will be no order as to costs.

Sd/-

Assistant Registrar (CRL)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

pkn

To

1. The District Collector,
Kanyakumari District,
At Nagercoil.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Tahsildar,
Thiruvattaru Taluk,
Kanyakumari District.

+1 CC to M/s.ANANTH C.RAJESH, Advocate (SR-31229[F] dated
05/10/2021)

+1 CC to M/s.SPL.GP (SR-31227[F] dated 05/10/2021)

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PS (CO)/RS (22.10.2021) 3P 5C