



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.10.2021

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P(MD)No.18922 of 2021

S.Mahadevan

... Petitioner

Vs.

1.The Tahsildar,
Thovalai Taluk at Boothapandi,
Kanyakumari District.

2.The Taluk Surveyor,
Thovalai Taluk,
Kanyakumari District.

3.The Village Administrative Officer,
Thiruppathisaram Village,
Thovalai Taluk,
Kanyakumari District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, by directing the respondents herein to process the application for subdivision Patta Transfer vide Can No.0333002086541 and Application No.2019/0105/30/094500 dated 30.08.2019 for subdivision Patta Transfer from Joint Patta No.1160 and issue separate Patta to the petitioner for the lands comprised in Survey Nos.334/2 and 3 to an extent of 17 $\frac{3}{4}$ cents in Thiruppathisaram Village, Thovalai Taluk, Kanyakumari District by considering the petitioner's representation dated 04.10.2021 within a time stipulated by this Court.

For Petitioner : Mr.D.Nallathambi
For Respondents : Mr.P.Subbaraj,
Counsel for State.

ORDER

The petitioner seeks sub division and separate patta in respect of the land bearing Survey Nos.334/2 and 334/3 of an aggregate extent of 17 $\frac{3}{4}$ cents in Thiruppathisaram Village, Thovalai Taluk, Kanyakumari District.

2. The petitioner claims title in respect of the above mentioned land under a sale deed dated 18.07.2007 executed by one Velappan in his favour. It is stated that the said Velappan purchased the property under a registered sale deed dated 06.02.1982 from one Thangaraj. The joint patta issued to 17 persons under Patta No.1160 is cited in support of the petition. The petitioner states that encroachment proceedings were instituted under the Tamil Nadu Protection of Tanks and Eviction of Encroachment Act, 2007 in



respect of the property bearing Survey No.340/1. Therefore, it is stated that the said proceedings are separate. After submitting an E-application dated 30.08.2019 seeking sub division and issuance of a separate patta, the present Writ Petition is filed.

3. Mr.P.Subbaraj, learned counsel for the State, accepts notice for all the respondents. He points out that the joint pattadhars should be put on notice before the petitioner's representation is considered and decided.

4. The sale deed in favour of the petitioner describes the property as extending across Survey Nos.334/2 and 334/3. The total extent is mentioned as 17 $\frac{3}{4}$ cents. The patta enclosed by the petitioner is only in respect of Survey No.334/2B. The said patta has been issued in the names of 17 persons, including the petitioner. The total extent indicated therein is 39.60 ares. Since the sale deed in favour of the petitioner is in respect of 17 $\frac{3}{4}$ cents across two (2) survey numbers, the first task would be to survey the relevant property and endeavour to identify the petitioner's portion therein. Needless to say, the joint pattadhars should be put on notice before a decision is taken in this regard since it would entail sub division.

5. Subject to the above observations but without entering any findings on the merits of the matter, W.P(MD).No.18922 of 2021 is disposed of by directing the first respondent to consider the petitioner's representation dated 04.10.2021 and dispose of the same by a reasoned order after providing a reasonable opportunity to the petitioner and the joint pattadhars under Patta No.1160. Such reasoned order shall be issued within a period of four (4) months from the date of receipt of a copy of this order. There will be no order as to costs.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

tsg/LM

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 Tahsildar,
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Kanyakumari District.

2.The Taluk Surveyor,
Thovalai Taluk,
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+1 CC to M/s.D. NALLATHAMBI, Advocate (SR-33117[F] dated 28/10/2021

W.P (MD) No.18922 of 2021
28.10.2021

DJ(CO)
KB(18.11.2021) 3P 5C