



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.12.2021

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P. (MD) .No.20623 of 2021

S.Murugandi

... Petitioner

Vs.

1.The Revenue Divisional Officer,
Kovilpatti,
Tuticorin District.

2.The Tahsildar,
Ottapidaram Taluk,
Tuticorin District.

3.M.Annathai

4.M.Valliammal

5.M.Deivanai

6.M.Rajeshwari

... 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 first and second respondents to consider the representation dated 01.09.2021 submitted by the petitioner to cancel the Joint Patta No.2221 issued by second respondent in favour of respondents 3 to 6 and to issue separate patta in favour of the petitioner on total extend of 91 cents in S.No.290/4A at Kavarnagri Village, Ottapitaram Taluk, Tuticorin District, within a time frame to be fixed by this Court.

For Petitioner : Mr.T.Chandrasekaran

For R-1 and R-2 : Mr.D.Ghandiraj,
Special Government Pleader.

For R-3 to R-6 : Mr.P.Banuprasath

ORDER

The petitioner, S.Murugandi and his elder brother, Mookaiah, had purchased agricultural land in their joint names on 21.07.1980. The said land is situated in Survey No.290/4A at Kavarnagri Village, Ottapitaram Taluk, Tuticorin District.

2. Subsequently, the elder brother, Mookaiah, died in the year 2006. The petitioner claims to be in complete possession of the entire area which had been purchased through a sale deed dated 21.07.1980. The respondents 3 to 6 are the widow and the three daughters of Mookaiah / elder brother of the petitioner. They also



have a right, title and interest to one half of the lands which had been purchased by way of the sale deed dated 21.07.1980 by Mookaiah, their husband/father and the petitioner herein/brother of Mookaiah.

3. Mr.D.Ghandiraj, learned Special Government Pleader, appears on behalf of respondents 1 and 2 and Mr.P.Banuprasath, learned counsel, appears on behalf of respondents 3 to 6.

4. It is the grievance expressed by the learned counsel for respondents 3 to 6 that the petitioner is in possession of the entire lands, which fact is disputed by the learned counsel for the petitioner. This is an issue which can be decided only on a field visit made and possession of vacant land can be proved only by documents and this Court can never give any finding with respect to possession of the lands.

5. The petitioner seeks patta in his name. He questions a patta given in the names of the respondents 3 to 6. However, before granting patta, the land must be divided into two halves. Either the petitioner or the respondents 3 to 6 can institute a suit for partition and separate possession. That would aggravate the existing adversarial relationship between two families. I would rather direct the second respondent / the Tahsildar to take matters in his hands and with the help of the Surveyor, divide the land into two equal halves, if the parties accept to such decision. If they accept to such decision, then the lands may be divided as aforesaid in two equal halves, measured and boundary stones can be kept. This would at least prevent the parties from entering a long drawn litigation which would ultimately work to their adverse interest and their disadvantage.

6. Once the land is divided into two equal halves, both the petitioner and the respondents 3 to 6 may apply for separate patta with respect to the lands which they consent to take. If no consent is coming forth, the only option is to file a civil suit. I have placed all options before the petitioner and the respondents 3 to 6 and it is for them to choose either one.

7. Let further application for survey of the lands be filed either by the petitioner or by the respondents 3 to 6. If such an application is filed following due procedure through online and on payment of necessary charges, then the Tahsildar, with the assistance of the Surveyor, may proceed further to survey the lands and fix boundary stones. If no such application is filed, neither the petitioner nor the respondents 3 to 6 can be helped by the official respondents. If at all the survey is done, thereafter, the petitioner and the respondents 3 to 6 may apply for patta on that stage. If the patta is to be granted to only one half either to the petitioner or to the respondents 3 to 6, then the Tahsildar may revisit the earlier order granting patta by him to the respondents 3



8. With the said observations, this Writ Petition is disposed of. There shall be no order as to costs.

Sd/-

Assistant Registrar (T&P)

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// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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 Revenue Divisional Officer,
Kovilpatti,
Tuticorin District.

2.The Tahsildar,
Ottapidaram Taluk,
Tuticorin District.

+1 CC to M/s.P.BANUPRASATH, Advocate (SR-39602[F] dated 20/12/2021)

+1 CC to M/s.T.CHANDRA SEKARAN, Advocate (SR-39666[F] dated 21/12/2021)

W.P. (MD) .No.20623 of 2021
20.12.2021

MGJ(04.01.2022) 3P 5C