



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2022

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.1839 OF 2020 AND
WMP.NO.2141 OF 2020

K.Arjunan

...Petitioner

Vs

1.The Revenue Divisional Officer,
O/o the Revenue Divisional Officer,
Krishnagiri District

2.The Tahsildar,
O/o the Tahsildar,
Uthangarai Taluk,
Krishnagiri District

3.Krishnamoorthy

...Respondents

Prayer :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order of the first respondent in Ref.No.196/2019/G dated 25.11.2019 and quash the same, consequently direct the second respondent to issue separate patta in favour of the petitioner for the extent of 1.35 cents in sub divided S.No.70/2D1 situated at Kommampattu Village, Uthagarai Taluk, Krishnagiri District.

For Petitioner : Mr.S.Viswanathan
for M/s.Dass and Viswa Associates

For Respondents
For R1 & 2 : Mr.V.Jeevagiridharan,
Additional Government Pleader

ORDER

This writ petition is filed to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order of the first respondent in Ref.No.196/2019/G dated 25.11.2019 and quash the same, consequently direct the second respondent to issue separate patta in favour of the petitioner for the extent of 1.35 cents in sub divided



S.No.70/2D1 situated at Kommampattu Village, Uthagarai Taluk, Krishnagiri District.

2. Heard, Mr.S.Viswanathan, the learned counsel for the petitioner and Mr.V.Jeevagiridharan, Additional Government Pleader appearing for the respondents 1 & 2.

3. The case of the petitioner is that the property comprised in survey Nos.70/1A, 70/2D and 71/1A situated at Kommampattu Village, Uthagarai Taluk, Krishnagiri District owned by their family members. In a suit for partition in OS.No.102 of 1985 on the file of the Sub Court, Krishnagiri, it was decreed and divided into two equal shares. One share was allotted to the petitioner. Accordingly, final decree was passed in OS.No.102 of 1985. As per final decree, the petitioner was allotted 5.95 acres i.e. the land comprised in survey No.70/1A to an extent of 1.68 acres, the land comprised in survey No.70/2D admeasuring 1.35 acres and land comprised in survey No.71/1A to an extent of 2.92 acres, totally 5.95 acres allotted in favour of the petitioner. The daughter born through the second wife of the petitioner's father filed partition suit in OS.No.106 of 1998 against the petitioner and his father on the file of the Additional Special Court, Krishnagiri and it was dismissed. However, the petitioner was granted patta only to an extent of 54 cents in survey No.70/2D2 and for remaining extent of 81 cents sub divided in survey No.70/2D1, patta was granted in favour of others along with petitioner's name. Therefore, the petitioner submitted application before the first and second respondents for rectification of error committed in the patta issued in favour of the petitioner. However, the first respondent instead of deleting other names in the joint patta No.353, removed the petitioner's name in the joint patta to an extent of 81 cents without considering the final decree passed in OS.No.102 of 1985.

4. On perusal of the counter filed by the second respondent, revealed that the petitioner has not given any statement during the course of enquiry on the file of the first respondent and he has not raised any objection during the enquiry and also failed to produce the judgment made in OS.No.102 of 1985. He also failed to produce any of the documents.

5. Considering the above, this writ petition is allowed and the order impugned dated 25.11.2019 of the first respondent is set aside. The request made by the petitioner is remanded back to the first respondent for fresh consideration. The first respondent is directed to issue notice to the petitioner and the counter party i.e. the third respondent herein and conduct enquiry after giving them opportunity of hearing and pass orders on merits and in accordance with law within a period of twelve



weeks from the date of receipt of copy of this order. It is made clear that the petitioner is at liberty to produce all the documents and to make his statement before the first respondent during the enquiry. Consequently, connected miscellaneous petition is closed. No order as to costs.

Sd/-
Assistant Registrar (CS-VII)

// True Copy //

Sub Assistant Registrar

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To

1. The Revenue Divisional Officer,
O/o the Revenue Divisional Officer,
Krishnagiri District

2. The Tahsildar,
O/o the Tahsildar,
Uthangarai Taluk,
Krishnagiri District.

+1cc to M/s. Dass and Viswa, Advocates Sr.No.3153

+1cc to the Government Pleader Sr.No.3398

W.P.No.1839 of 2020

SMI (CO)
RVM(07/02/2022)