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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.5354 of 2022
W.M.P.Nos.5445 of 2022

1.R.Arumugam
2.R.Venkatesan

... Petitioners

Vs.

1. The District Collector,
Office of the District Collector,
Cuddalore District.

2. The Revenue Divisional Officer,
Cuddalore District.

3. Revenue Tahsildar,
Viruthachalam Taluk,
Cuddalore District.

4. R.Govindarasu
(R4 impleaded vide order dated 23.03.2022
made in W.M.P.6729/2022 in W.P.No.5354 of 2022)

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the first and second respondent to instruct the third respondent to issue patta with regard to measuring 68 cents out of 1 acre 03 cents in Survey No.170/1, New S.No.170/1B, 38 cents in Survey No.170/2, 54 cents in S.No.170/3, 98 cents in S.No.170/4, 29 cents in S.No.170/5, 92 cents in S.No.172/11, 3 acres 16 cents in S.No.266/2 of Iruppu Village.

For petitioners : Mr.N.Naganathan

For Respondents : Mr.M.Murali
Government Advocate

ORDER

The petitioner has filed this petition seeking direction to the first and second respondent to instruct the third respondent to issue patta with regard to measuring 68 cents out of 1 acre 03 cents in Survey No.170/1, New S.No.170/1B, 38 cents in Survey



No.170/2, 54 cents in S.No.170/3, 98 cents in S.No.170/4, 29 cents in S.No.170/5, 92 cents in S.No.172/11, and 3 acres 16 cents in S.No.266/2 of Iruppu Village.

2. Mr.M.Murali, learned Government Advocate takes notice for the respondents. In view of the limited relief sought for in this petition and on the consent expressed by the learned counsel appearing on either side, this petition is taken up for final disposal.

3. The case of the petitioner is that the petitioners father was the owner of the properties comprised in S.Nos.170/1, 170/1B, 170/2, 170/3, 170/4, 170/5, 172/11, 173/3, 236/4A, 252/2f and 266/2 of Iruppu Village, Viruthachalam Taluk, Cuddalore District. However, the dispute arose between the petitioners father and petitioners brother/Ramalingam to separate the properties by way of partition. Hence, the petitioner's father filed a suit in O.S.No.1465 of 1993 before the District Munisif Court, Viruthachalam for declaration and permanent injunction in respect of above said properties, as against the said Ramalingam, and the said suit was decreed in terms of the Compromise Memo on 14.10.1993. In terms of the said Compromised Memo, the land measuring 35 cents out of 1.3 acres in S.No.170/1(New S.No.170/1B) was allotted to Ramalingam and remaining extent of 68 cents in the same Survey No. was allotted to the share of petitioners father as well as to the petitioners. Thereafter, petitioners father was allotted 36 cents in S.No.170/2 in favour of the petitioners and 2.67 acres in S.No.236/4A was allotted to Said Ramalingam. Hence, petitioners have made a representation dated 02.08.2021 before the third respondent to issue Patta in their favour in respect of lands measuring 68 cents out of 1 acre 03 cents in S.No.17/1, 38 cents in S.No.170/2, 54 cents in S.No.170/3, 98 cents in S.No.170/4, 29 cents in S.No.170/5, 92 cents in S.No.172/11, and 3 acres 16 cents in S.No.266/2. However, till date no action has been taken by the respondents on the said representation made by the petitioners. Hence, the present Writ Petition has been filed by the petitioners for the above relief.

4. Though very many grounds have been raised, learned counsel for the petitioners submits that it would suffice if this Court may directs the respondents to issue patta in favour of petitioners, within a reasonable time that may be fixed by this Court.

5.This Court by order dated 09.03.2022, issued direction to the third respondent/Tahsildar to issue Patta, if it is otherwise in order. Today, when the matter listed under the caption for 'Issuance of patta', learned Government Advocate submitted that the Patta was not issued on the ground that a



suit in O.S.No.174/2017 is pending before the Sub Court, Viruthachalam in between the petitioners and one R.Govindarasu, and the said R.Govindarasu is not a party in the present writ petition.

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6. In view of the aforesaid submissions, this Court is of the view that a suit in O.S.No.174/2017 is pending between the petitioners and R.Govindarasu and on suppression of the above facts of pendency of suit by the learned counsel for the petitioner, the present writ petition is dismissed. However, liberty is granted to petitioners to workout their remedy in the manner known to law.

7. Accordingly, this writ petition is dismissed with the above liberty to petitioners. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

tri/nhs

To

1. The District Collector,
Office of the District Collector,
Cuddalore District.
2. The Revenue Divisional Officer,
Cuddalore District.
3. The Revenue Tahsildar,
Viruthachalam Taluk,
Cuddalore District.

+1cc to Mr.K.Govi Ganesan, Advocate, S.R.No.19679
+2cc to Mr.N.Naganathan, Advocate, S.R.No.99637
+2cc to M/s.S.Arokia Maniraj, Advocate, S.R.No.23904 [09/06/2022]

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MT(CO)
CT 27/04/2022