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W.P.No.29124 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2022

CORAM
THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.29124 of 2022

A.Sivaprakasam

...Petitioner

Vs.

1.The Tahsildar,
Chinnasalem Taluk,
Chinnasalem,
Tiruvannamalai District.

2.The District Collector,
Villupuram, Villupuram District.

3.A.Pichai Pillai,
4.Subramanian

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the 1st respondent in Na.Ka.A6/97/2020 dated 20.01.2020 and quash the same and directing the 1st respondent to issue separate patta to the petitioner for his dry agricultural land measuring above 14 Cents comprised in S.No.23/3 and 23/4, having joint patta No.29 situated in Vasudevanur Village, Chinnasalem Taluk, Kallakurichi District as requested by the petitioner's representations dated 24.09.2021 and 15.03.2022.



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For Petitioner : Mr.A.Sivaprakasam

For Respondents : Mr.U.Bharanidharan for RR1 to 2
Additional Government Pleader

ORDER

The petitioner has filed this petition to call for the records pertaining to the impugned order passed by the 1st respondent in Na.Ka.A6/97/2020 dated 20.01.2020 and quash the same and directing the 1st respondent to issue separate patta to the petitioner for his dry agricultural land measuring above 14 Cents comprised in S.No.23/3 and 23/4, having joint patta No.29 situated in Vasudevanur Village, Chinnasalem Taluk, Kallakurichi District as requested by the petitioner's representations dated 24.09.2021 and 15.03.2022.

2.Since no adverse orders is being passed as against the 3rd and 4th respondents, notice to the 3rd and 4th respondents is dispensed with.

3.The case of the petitioner is that the petitioner's parents died leaving behind the petitioner and his two brothers as the legal heirs, namely the 3rd and 4th respondents. Originally, the petitioner's father was owning about 41



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Cents of the agricultural land situated in various survey numbers in Vasudevanur Village, Chinnasalem Taluk. Prior to the death of the petitioner's father, he executed an unregistered Will, settling the whole property in favour of the petitioner, which was later objected by the petitioner's brother and later on they entered into a partition dated 01.01.2002. As per the said partition, the petitioner was given a share of 14 Cents of land situated in S.No.23/3 and 23/4. Based on the partition, the petitioner claimed separate patta for the above said land, measuring an extent of 14 Cents. The said application was not considered and the petitioner filed a Writ Petition in W.P.No.21714 of 2019 before this Court and this Court vide its order dated 03.02.2020 issued direction to the respondents therein to consider the petitioner's representation and pass appropriate orders on the same. Pursuant to the same, the 1st respondent herein passed the present impugned order on the ground that the property in S.Nos. 23/3 and 23/4 is joint family property which belongs to one Pichai Pillai, Subramanian and includes the petitioner. The said Pichai Pillai and Subramanian are none other than the petitioner's brothers and there was no direct partition between them and hence, in the absence of demarcating the property, no separate patta can



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be issued in favour of the petitioner. Challenging the same, the present Writ

Petition has been filed.

4.The Party-in-Person submitted that already the petitioner's brothers had filed a suit for partition in O.S.No. 48 of 2013 and the said suit is dismissed. Hence, there is no legal impediment to grant separate patta in favour of the petitioner. It is further submitted by the learned counsel for the petitioner that due to the non-grant of separate patta, the petitioner is unable to get separate electricity connection.

5.Mr.U.Bharanidharan, the learned Additional Government Pleader appearing for the respondents 1 and 3 submits that till date the property is not partitioned between the family members and as per the Revenue Records the entire S.Nos. 23/3 and 23/4 stands in the name of petitioner and his brothers, viz., Pichai Pillai and Subramanian, unless the petitioner and his brothers effected the partition for demarcating the property, no separate patta can be issued. Accordingly, he prayed for dismissal of the Writ Petition.



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6. Heard, the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 to 3 and perused the materials available on records.

7. The facts in the present case are not in dispute. Though the petitioner claims that he exclusively owns the property in S.Nos. 23/3 and 23/4 to an extent of 14 Cents, however, no documents have been filed before this Court to substantiate his claim and further, as per the Revenue Records, the S.Nos. 23/3 and 23/4, to an extent of 14 cents stands in the name of the petitioner and his brothers Pichai Pillai and Subramanian and in the absence of any demarcation or any partition deed, no separate patta can be granted. Hence, the prayer sought for in this Writ Petition cannot be granted. However, liberty is given to the petitioner to make appropriate application before the competent authority for electricity service connection along with a copy of this order and other documents. On filing of such application, the Electricity Board is directed to scrutinise the documents produced by the petitioner along with the joint patta and pass appropriate orders on merits and in accordance



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with the law.

WEB COPY 8.This Writ Petition is accordingly is disposed of. No costs.

Consequently, connected miscellaneous petition is closed.

03.11.2022

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Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No

M.DHANDAPANI,J.

gba

To
1.The Tahsildar,
Chinnasalem Taluk,
Chinnasalem,
Tiruvannamalai District.

2.The District Collector,
Villupuram, Villupuram District.

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