



IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 01.12.2022

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

**W.P.No.31660 of 2022
and
WMP.Nos.31103 & 31104 of 2022**

1.R.Karunanithi
2. K.Karpagavalli
..Petitioners

Vs

1. The Revenue Divisional Officer,
Thirumangalam
Chennai District.

2.The Special Tahsildar,
Urban Land Tax Scheme
Ambattur Taluk Office,
Ambattur, Chennai District.

3.Minor S.Kumaresan
Rep by his father and Natural Guardian
S.Saravanamoorthy

..Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to impugned order namely in Na.Ka.No.A1/014/2021 dated



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12.10.2022 and 02.11.2022 passed by the 2nd respondent quash the same and issue consequential direction for granting separate patta to the petitioners herein in S.no.603/2A4A, Ambattur Village (1/4th share out of 5196 sq.ft) after carefully considering the reply of the petitioner dated 31.10.2022.

For Petitioners : Mr.S.Doraiswamy

For Respondents : Mr.U.Baranidharan
Additional Government Pleader

ORDER

This Writ Petition is filed seeking a Writ of Certiorarified Mandamus calling for the records relating to impugned orders namely in Na.Ka.No.A1/014/2021 dated 12.10.2022 and 02.11.2022 passed by the 2nd respondent and quash the same and issue consequential direction for granting separate patta to the petitioners herein in S.No.603/2A4A, Ambattur Village (1/4th share out of 5196 sq.ft) after carefully considering the reply of the petitioner dated 31.10.2022.

2. It is the case of the petitioners that one A.G.Sivanandham, father of the 2nd petitioner, owned a property to an extent of 5196 sq.ft in



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S.No.603/2A4A, Ambattur Village. He executed three settlement deeds one in favour of the 2nd petitioner and the other two in favour of Saravanamoorthy and Dhakshinamurthy, who are the brothers of the 2nd petitioner. The said deeds were cancelled and thereafter he executed a Will dated 17.09.2012, and the 2nd petitioner is entitled to 1/4th share. The 2nd petitioner, by virtue of the said Will, got her share in the partition, vide the deed which was registered on 30.09.2019 as Doc.No.27 of 2019 on the file of SRO, Ambattur Village. On execution of partition deed, the 2nd petitioner executed settlement deed in favour of the 1st petitioner and the petitioners were in possession of the said property and Patta No.2411 was assigned. Subsequently, based on the representation of the 3rd respondent, the 1st respondent has passed the impugned order, cancelling the patta issued in favour of the 2nd petitioner. Aggrieved against the same, this writ petition has been filed.

3. The learned counsel for the petitioners would submit that after conducting enquiry, the Special Tahsildar passed an order observing that it was impossible to issue separate pattas and the same could be issued to the petitioners only jointly with the 3rd respondent herein. He sought to issue a



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direction to the authorities to grant patta based on the title possessed by the respective parties.

4. The learned Additional Government Pleader submitted that demarcation of the subject property to the sharers with regard to the respective petitioners is impossible because the entire properties are in a single piece of land.

5. Heard the learned counsel for the petitioners as well as the learned Additional Government Pleader for the respondents and perused the materials available on record.

6. A careful perusal of the records reveals that on an earlier occasion, the first petitioner and his wife have filed a writ petition in WP.No.21374 of 2021 seeking cancellation of patta issued in favour of the petitioners in Na.Ka.No.A1/014/2021, vide impugned order dated 28.05.2021 on the file of the first respondent. This Court by its order dated 20.04.2022 has issued a direction to the first respondent to conduct proper enquiry between the parties after giving due opportunity to the petitioners as well as other



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interested parties and grant patta based on the title deed as well as partition deed and Memorandum of Understanding, if any, filed by the parties.

Pursuant to the direction, the present impugned order is passed stating that the 'A' and 'B' schedule properties were allotted in favour of Lokeshwaran and Dhakshinamoorthy and 'C' and 'D' properties were allotted in favour of Karpagavalli and Minor Kumaresan. Since the entire ground and building of all the parties are situated on the same extent of land, demarcation of immovable properties are impossible and separate pattas cannot be granted and on that reasoning, the impugned order was passed. Challenging the same, the present writ petition is filed.

7. The learned counsel for the petitioners would submit that though this court made it clear to hear the parties and pass appropriate order, without hearing the parties, the order has been passed stating that separate pattas cannot be granted and that the petitioners and other co-sharers are entitled to joint patta and not separate patta. However, the three co-sharers who possess the scheduled mentioned properties in A, B and D have no objection for issuing separate pattas in favour of them. Hence, this court may sets aside the impugned order and remit the matter to the 2nd respondent to



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conduct enquiry between the petitioners as well as the third respondent including the other sharers, namely Lokeshwaran and Dhakshinamoorthy and upon hearing the parties, if the co-sharers have no objection for issuing separate pattas, the 2nd respondent may be directed to pass appropriate orders in accordance with law.

8. Mr.R.Rajasekar, Tahsildar, Ambattur and Mr.K.Arun, Sub-Inspector of Survey, Ambattur Settlement Office, Ambattur, are present before this court.

9. The Tahsildar would submit that if the other sharers have no objection for separate pattas and they submit the requisite applications, the said applications will be considered and they will issue separate pattas to them.

10. Recording the abovesaid submission of the Tahsildar, viz, the 2nd respondent, the Writ Petition is disposed of with a direction that the petitioners and other co-shares are directed to appear before the Tahsildar and submit consent letter for issuance of separate patta and if such consent



letter is submitted, the Tahsildar/2nd respondent is directed to issue separate pattas in favour of all the sharers in accordance with law. Consequently, connected miscellaneous petitions are closed. No costs.

01.12.2022

Index : yes/No
Internet : Yes/No
gv

To

1. The Revenue Divisional Officer,
Thirumangalam
Chennai District.
2. The Special Tahsildar,
Urban Land Tax Scheme
Ambattur Taluk Office,
Ambattur, Chennai District.
3. The Public Prosecutor,
High Court, Madras.



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M.DHANDAPANI, J.

gv

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