



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.03.2022

CORAM:

THE HONOURABLE **MR. JUSTICE ABDUL QUDDHOSE**

W.P.[MD]No.4629 of 2022

Sathiyendran

... Petitioner

/Vs./

The Tahsildar,
Taluk Office,
Ramanathapuram Taluk,
Ramanathapuram District.

... Respondent

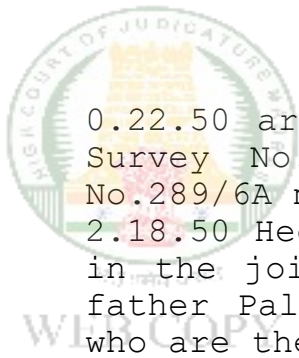
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondent to issue separate Patta in the petitioner's name, his paternal uncle, R.Murugan, his younger brother, Kulanthaisamy and his cousin brother, Shanmuga Rajeshwaran pertaining to their respective properties as per the details described in Para No.11 of the Affidavit, by considering the petitioner's online application dated 17.09.2021, within the time frame that may be stipulated by this Court.

For Petitioner : Mr.P.Senthurpandian
For Respondent : Mr.M.Lingadurai
Special Government Pleader

ORDER

This writ petition has been filed for a Mandamus seeking for a direction to the respondent to issue separate Patta in the names of petitioner, his paternal uncle, R.Murugan, his younger brother, Kulanthaisamy and his cousin brother, Shanmuga Rajeshwaran, pertaining to their respective properties, as per the details described in Para No.11 of the Affidavit, by considering the petitioner's online application dated 17.09.2021, within a time frame to be fixed by this Court.

2. According to the petitioner, the properties comprised in Survey No.422/1 measuring an extent of 0.12.00 ares, Survey No.422/2 measuring an extent of 0.13.50 ares, Survey No.422/6 measuring an extent of 0.28.00 ares, Survey No.422/8 measuring an extent of 1.16.50 ares, in total measuring an extent of 1.70.00 Hectares equivalent to 4.20 Acres of dry lands and in Survey No.287/2B measuring an extent of 0.50.50 ares, Survey No.308/4A measuring an extent of 0.11.50 ares, Survey No.427/1 measuring an extent of



0.22.50 ares, Survey No.463/6 measuring an extent of 0.33.00 ares, Survey No.431/2 measuring an extent of 0.63.00 ares & Survey No.289/6A measuring an extent of 0.38.00 ares and in total measuring 2.18.50 Hectares equivalent to 5.40 Acres of wet lands are included in the joint patta No.1535, standing in the names of petitioner's father Palanivel and his father's brothers, Murugan and Kathirvel, who are the sons of Late.Raman.

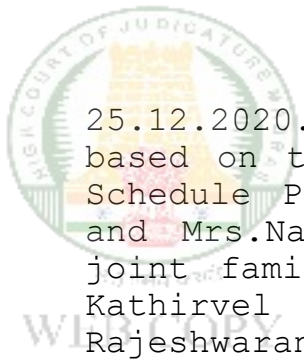
3.It is the case of the petitioner that the aforementioned properties are ancestral properties and self acquired properties of the petitioner's grandfather, Late.Raman. The petitioner's grandfather expired on 18.02.1993 and thereafter, the Patta was transferred jointly in the name of the petitioner's father, Palanivel and his father's brothers, Murugan and Kathirvel on 18.07.2000 and 01.12.2000.

4.According to the petitioner, the aforementioned properties were jointly enjoyed by his father and his father's brothers and thereafter, they had orally effected partition amongst themselves on 20.02.2002. As per the oral partition dated 20.02.2002, 'A' Schedule Properties were allotted to the petitioner's father, 'B' Schedule Properties were allotted to the petitioner's father's younger brother, Murugan and the 'C' Schedule Properties were allotted to the petitioner's father's youngest brother, Kathirvel.

5.It is also the case of the petitioner that his father, Palanivel died on 08.04.2014 leaving behind the petitioner, his father's wife, Mrs.Packiam (the petitioner's mother) and the petitioner's elder sisters, Mrs.Selvi, Mrs.Lakshmi, Mrs.Vijaya and the petitioner's younger brother, Kulanthaisamy as his only legal heirs. Thereafter, the properties of the petitioner's father were in the joint possession and enjoyment of all the legal heirs of late petitioner's father, Palanivel. On 15.07.2017, in the presence of the elders and well wishers, the petitioner and his family members have orally effected partition amongst themselves.

6.According to the petitioner, on 25.09.2019, the petitioner and his family members have prepared a partition list of the properties, based on the oral partition dated 15.07.2017, under which, the petitioner's mother and the petitioner's elder sisters had received a sum of Rs.5,000/- each out of the joint family assets as 'A', 'B', 'C' & 'D' schedule properties respectively. According to the petitioner, the 'E' Schedule Property was allotted to him and the 'F' Schedule Property was allotted to the petitioner's younger brother, Kulanthaisamy.

7.It is his case that his father's youngest brother, Kathirvel died on 02.08.2020 leaving behind his wife, Shanmugavalli, his daughter, Nandheeshwari and his son, Shanmuga Rajeshwaran as the only legal heirs. Thereafter, they effected a partition orally on



25.12.2020. Further, on 15.02.2021, a partition list was prepared, based on the oral partition dated 25.12.2020, wherein, as per 'A' Schedule Property and the B' Schedule Property, Mrs. Shanmugavalli and Mrs. Nandheeshwari had received Rs.10,000/- each, out of the joint family property of the brother of the petitioner's father, Kathirvel and 'C' Schedule Property was allotted to Shanmuga Rajeshwaran.

8. It is also the case of the petitioner that he and his family members are enjoying the respective shares of the common ancestral property of the petitioner's grandfather, Late. Raman. The Crop Insurance Premiums also are being paid in the names of the respective share holders and during drought declared by Government, the insurance claims have also been settled in the names of the respective share holders. The petitioner has submitted an application on 17.09.2021 duly enclosing the above said three partition lists dated 15.05.2003, 25.09.2019 & 15.02.2021 requesting for issuance of separate Patta to the respective share holders and the petitioner has also submitted an online application for transfer of patta on the very same day, on 17.09.2021. Since the applications have not been considered till date, the petitioner has filed this writ petition.

9. The petitioner has produced documents in support of his contentions made in the affidavit filed in support of this writ petition. No prejudice would be caused to the respondents, if the application of the petitioner dated 17.09.2021 seeking for issuance of separate Patta in the petitioner's name, his paternal uncle, R. Murugan, his younger brother, Kulanthaisamy and his cousin brother, Shanmuga Rajeshwaran is considered on merits and in accordance with law, after affording a fair hearing to the petitioner as well as other necessary parties, whom the respondent deems fit to enquire.

10. Accordingly, this Court directs the respondent to consider the petitioner's application dated 17.09.2021 seeking for issuance of separate Patta in the petitioner's name, his paternal uncle, R. Murugan, his younger brother, Kulanthaisamy and his cousin brother, Shanmuga Rajeshwaran pertaining to their respective properties, as per the details described in Para 11 of the affidavit filed in support of this writ petition and pass final orders, on merits and in accordance with law, after affording a fair hearing to the petitioner as well as other necessary parties, whom the respondent deems fit to enquire, within a period of twelve [12] weeks from the date of receipt of a copy of this order. It is made clear that the petitioner shall produce all the relevant documents in order to enable the respondent to consider his application.



11. With the above direction, this Writ Petition stands disposed of. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS-)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

The Tahsildar,
Taluk Office,
Ramanathapuram Taluk,
Ramanathapuram District.

+1 CC to M/s.SPL GP (SR-12723[F] dated 17/03/2022)

+2 CC to M/s.P.SENTHUR PANDIAN, Advocate (SR-12534[F] dated
16/03/2022)

order made in
W.P. [MD]No.4629 of 2022

Dated:

16.03.2022

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TR(31.03.2022) 4P 5C