



W.P.(MD) No.16261 of 2014

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.08.2022

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD) No.16261 of 2014

and

M.P.(MD) No.1 of 2014

R.Alagu (Died)

Murugesan

... Petitioner

[Petitioner is impleaded vide order dated 23.03.2022 made in W.M.P.(MD) No.15033 of 2021 in W.P.(MD) No.16261 of 2014]

Vs

- 1.The District Revenue Officer,
Sivagangai District,
Sivagangai.
- 2.The Revenue Divisional Officer,
Sivagangai District,
Sivagangai.
- 3.The Tahsildar,
Sivagangai Taluk,
Sivagangai.
- 4.Krishnan (Died)



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5.K.Pandi

[R5 – substituted as LR of the deceased R4]

6.Palaniyammal

7.Kannathal

8.Mangaaye

... Respondents

[Respondents 6 to 8 – impleaded vide order dated 08.08.2022 made in W.M.P.(MD) No.10071 of 2022 in W.P.(MD) No.16261 of 2014]

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records from the 1st respondent relating to his proceedings in Pa.Mu.P4/25238/2013 dated 24.07.2014 and quash the same.

For Petitioner : Mr.S.A.Ajmal Khan

For Respondents : Mr.P.Thambi Durai
Government Advocate for R1 to R3

: Mr.S.Ramesh
for Mr.V.Raghavachari for R5 to R8

ORDER

The present writ petition has been filed challenging an order dated 24.07.2014, passed by the first respondent herein under which the revision filed by the fourth respondent to delete the name of the petitioner and one



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Palaniappan and Mangappan in the joint patta in Patta No.289/1C was allowed.

2. According to the learned counsel for the petitioner, the properties in dispute originally belonged to one Alagappan, who died leaving behind his two sons Palaniyandi and Kannappan. The said Palaniyandi died leaving behind his four sons Kannuchamy, Ramasamy, Arumugam and Subbiah; and Kannappan had died leaving behind his son named Murugandi. Originally, joint patta for S.No.289/1C for an extent of 2.85 acres was standing in the name of the sons of Kannuchamy namely Krishnan, Arumugam, Kannappan, Velu, and Karupppiah; Alagu, son of Ramasamy; Palaniappan, son of Subbiah; and Mangappan, son of Arumugam. One of the grand sons of Kannuchamy namely Manickam, son of Kannappan had made an application before the first respondent herein contending that during UDR proceedings, erroneously other names have got included and he wanted to delete those names. The said application was considered by the first respondent herein and it was rejected on 24.06.2008. Admittedly, no further proceedings were initiated by the said Manickam.



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Thereafter, a second attempt was made by Krishnan, son of Kannuchamy by approaching the first respondent herein to delete the name of the writ petitioner and another Mangappan and Palaniyandi by way of filing an application. After considering the relationship of the parties, ultimately the first respondent herein arrived at a finding that the total extent of the disputed survey number is 5.70 acres. Out of the 5.70 acres, 2.85 acres belonged to one Murugandi and balance 2.85 acres belonged to Kannuchamy. Only these two branches will have a share over the said survey number and hence, he arrived at a finding that the writ petitioner's name and others were erroneously included during UDR and he directed them to be deleted. This order is under challenge in the present writ petition.

3. The learned counsel for the petitioner had contended that Kannuchamy is the eldest son of Palaniyandi and all other persons in whose name the joint patta stands are also the legal heirs of either Palaniyandi or Kannappan. Without considering the said position, based upon the previous patta, the first respondent has passed such an order.



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4. Per contra, the learned Government Advocate contended that before UDR, patta was standing in the name of Kannuchamy and Murugandi alone and hence, the introduction of the other names during UDR proceedings is erroneous and only for this reason, the first respondent herein has interfered with.

5. I have carefully considered the submissions made on either side. There is no serious dispute with regard to the genealogy or the relationship between the parties. On various occasions, joint pattas have been standing in the name of any one co-sharer or the other co-sharer. There are no records to indicate that any partition has taken place among the family members. In such an event, it may not be legally sustainable to grant patta in the name of two legal heirs alone. Admittedly, the ancestors of the parties contesting the proceedings are Palaniyandi and Kannappan, who are the sons of Alagappan.



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6. In view of the said discussion and in the interest of justice, this

Court passes the following order:

- (a) A joint patta for S.No.289/1C for an extent of 5.70 acres shall be restored jointly in the name of Palaniyandi and Kannappan, sons of Alagappan;
- (b) Parties are at liberty to approach the civil Court by filing a suit for partition to work out their shares; and
- (c) Based upon the decree of the civil Court, the parties are at liberty to approach the Revenue Authority for ventilating their grievances.

7. With the above observations and directions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

08.08.2022
(2/2)

Index: Yes/No
Internet: Yes

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To

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R.VIJAYAKUMAR, J.

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