



W.P(MD)No.22246 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **18.08.2022**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.22246 of 2016

and

W.M.P(MD)No.15932 of 2016

1.Rakku

2.Muthupandi

3.Balamurugan

... Petitioners

Vs.

1.The District Revenue Officer/
Additional District Magistrate,
Madurai.

2.The Revenue Divisional Officer,
Madurai.

3.The Tahsildar,
Vadipatti,
Madurai District.

4.Josphin Rubila Rajathi

... Respondents

5.Soosai Manickam (Died)

(R5 impleaded vide Order, dated 06.02.2020 in
W.M.P(MD)No.17647 of 2019)



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6.A.S.George

... Respondents

(R6 is impleaded vide Court order, dated 12.07.2022 in W.M.P(MD)No.10609 of 2022)

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the record relating to the order of the first respondent dated 07.04.2016 made in நி.மு.எண்.ஐ2/50789/20130 reversing the order of the second respondent dated 26.06.2013 made in நி.மு.எண்.157/2012/எண் and the patta transfer effected by the third respondent dated 09.07.2004 in RTR 735/2004-2005 and quash the same.

For Petitioners	: Mr.D.Senthil
For R1 - R3	: Mr.P.Thambidurai Government Advocate
For R4	: Mr.Godlee for Mr.S.Saji Bino
For R5 & R6	: Mr.P.Muthuvel for M/s.Issac Chambers

ORDER

The present writ petition has been filed challenging an order passed by the first respondent herein, under which the petitioners' patta was cancelled and it was restored in the name of the fifth respondent herein.



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2. According to the petitioners, they are the owners of 41 $\frac{1}{4}$ cents in Survey No.520/2B2 on the basis of a registered partition deed, dated 18.06.1963. They have further contended that they had approached the revenue authorities for patta and based upon their request, sub-division was effected in Survey No.520/2B1 and 520/2B2 in the year 2004 and thereafter, a separate patta was issued in favour of the petitioners on 09.07.2004, assigning Survey No.520/2B2 in favour of the writ petitioners for an extent of 41 $\frac{1}{4}$ cents. A patta was granted in Patta No. 1027.

3. Patta granted in favour of the writ petitioners for an extent of 41 $\frac{1}{4}$ cents in Survey No.520/2B2 was objected to by the fourth respondent herein and she filed an appeal before Revenue Divisional Officer, Madurai. By way of an order, dated 26.06.2013, the Revenue Divisional Officer confirmed the order passed by the Tahsildar. The said order was challenged by way of revision by the fourth respondent herein before the first respondent. The first respondent herein after going through the documents filed on either side, has arrived at a finding that the petitioner is making a claim under one S.Velu. However, the said Velu has already alienated the properties in the year 1966. Hence, the legal heirs of Velu



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do not have any right, whatsoever to enter into a partition deed and based upon the said partition conferring title upon the petitioner. The first respondent further held that the Tahsildar ought not to have subdivided Survey No.520/2 into Survey Nos.520/2B1 and 520/2B2 and he proceeded to cancel the said sub-division. After cancelling the said sub-division, the first respondent herein has proceeded to restore the patta in the name of one Soosai Manickam for Survey No.520/2. However, patta standing in the name of the fifth respondent herein for Survey No.520/4 was also rejected. This order is under challenge in the present writ petition.

4. A perusal of the order passed by the respondents 1 and 2 herein will clearly indicate that the petitioner, fourth respondent and the fifth respondent are making a claim to the property in dispute, which was originally owned by one Sababathi Muthaliar. According to the learned counsel for the fifth respondent, after the death of Sababathi Muthaliar, it devolved upon one Pazhanimuthu Muthaliar by way of partition to an extent of 1.65 acres, out of total 2.18 acres. The said Pazhanimuthu Muthaliar has sold the property to one Sevi. After the death of Sevi, it devolved upon her four sons. Out of the four sons, three sons, namely



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S.Kannan, S.Velu and S.Muthu have jointly executed a sale deed on 11.08.1966 in favour of one Pitchai Ammal for a total extent of 1.23 $\frac{3}{4}$ acres. The said Pitchai Ammal is said to have executed a sale deed on 11.07.1984 in favour of the fifth respondent herein. Hence, according to the learned counsel for the fifth respondent, the fifth respondent is entitled to an extent of 1.23 $\frac{3}{4}$ acres in Survey No.520/2B.

5. Per contra, the learned counsel for the petitioners submits that they are the legal heirs of one Velu. Though Velu has executed a sale deed with regard to 41 $\frac{1}{2}$ cents in favour of Pitchai Ammal on 11.08.1966, the share of Balu also got devolved upon his ancestor S.Velu and that is how they are claiming title to 41 $\frac{1}{2}$ cents in Survey No.520/2B. A narration of the facts stated above will clearly establish that there is a civil dispute as to the fact whether Velu had after execution of sale deed in favour of Pitchai Ammal on 11.08.1966 still retained another extent of 41 $\frac{1}{2}$ cents or not.

6. The learned counsel for the fifth respondent has contended that he is not making any claim over Survey No.520/2B2. Hence, the first respondent herein under the impugned order ought not to have restored a patta in favour of the fifth respondent.



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7. In view of the above said facts, the order impugned in the writ petition is modified to the following effect:

(i) Patta in relation to Survey No.520/2B shall be restored in the name of Sevi.

(ii) The petitioner, fourth and sixth respondents shall approach the third respondent herein along with relevant documents to establish their right, title and possession of their respective extent of land.

(iii) The third respondent shall consider whether S.No.520/2B can be subdivided and to what extent it should be subdivided and thereafter, pass orders after giving due opportunity to the writ petitioner, fourth and sixth respondents herein. In other respects, the impugned order in the writ petition is confirmed.

8. Accordingly, this Writ Petition is allowed only to the extent as stated above. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index : Yes / No
Internet : Yes / No

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R.VIJAYAKUMAR ,J.

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