



W.P(MD).No.6381 of 2018

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.01.2023

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THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.P(MD)No.6381 of 2018

1. J.Vasudevan
2. J.Asai

..... Petitioners

- Vs-

The Tahsildar,
Usilampatti Taluk,
Usilampatti,
Madurai District.

... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the respondent in Na.Ka.No.2547/2016/S, dated 13.10.2017 and quash the same as illegal and consequently direct the respondent to conduct enquiry with regard to the petitioners application dated 01.07.2016 and 13.08.2016 praying issuance of separate Patta in his favour so also in favour of second petitioner herein in respect of their landed properties comprised in Survey Nos.55/2B, 55/5A2B, 55/5B, 55/7, 55/1, 54, 55/5A1, 55/6 and 55/3B situated at Kovilankulam Village, Usilampatti Taluk, Madurai District within time frame fixed by this



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Court after giving necessary opportunity to the parties concerned.

For Petitioners : Mr.J.Lawrance

For Respondent :Mrs.D.Farjana Ghoushia
Special Government Pleader

ORDER

The present Writ Petition has been filed challenging the order of the respondent rejecting the claim of the petitioners to sub divide the property in various Survey numbers under the unregistered partition deed stating that they are the Government poramboke lands.

2. The learned Counsel appearing for the petitioners would submit that the petitioners had been issued patta in respect of three survey numbers, which is shown as item Nos.1 to 3 in the impugned order. As regards, item Nos 4 to 7, they claim that they had been favoured with the decree of declaration as against one Kamanan, whose name is shown as pattadhar in the impugned order, in respect of item Nos. 4 to 7. As regards item Nos. 8 and 9 he would submit that they are the family properties and they have been orally partitioned the property. The respondent without ascertaining the partition that took place in the family and without giving any notice to any



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of the parties for conducting enquiry as directed by this Court in the earlier round of litigation in W.P(MD) No. 18041 of 2016, has passed the present impugned order. Hence, he seeks interference of this Court.

3. The learned Special Government Pleader appearing for the respondent would submit that except the partition deed, the petitioners did not produce any other documents before the authorities. That apart, item Nos.1 to 3 is shown in the impugned order are Government properties. If the petitioners were not issued patta, they have to first file an appeal before the District Revenue Officer to substantiate their rights and only thereafter, the respondent will issue patta with regard to the item Nos.4 to 9.

4. I have considered the rival claims made by the learned Counsels appearing on either side.

5. As rightly submitted by the learned Special Government Pleader with regard to the item Nos. 1 to 3 property, in the impugned order they have been shown as the Government lands. If the petitioners have already been issued with patta in their name or in the name of their family members



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with respect of the said lands they have to approach the District Revenue Officer concerned for carrying out necessary corrections and only thereafter they would be entitled to seek patta in respect of the said properties.

6. As regards, the properties in item Nos. 4 to 7, the petitioners have obtained the decree of declaration in O.S.No.97 of 2007. Hence, with regard to the item Nos.4 to 7, the respondent is directed to look into the civil proceedings and consider the case of the petitioners on the basis of the decree that is in their favour.

7. As regards item Nos.8 and 9, the claim of the petitioners is that it is a family property, which has been orally partitioned between the pattadhars shown in the impugned order. Here again the respondent has not issued any notice to the other joint pattadhars before rejecting the claim of the petitioners. In view of the same, this Court, as regards item Nos.4 to 9 shown in the impugned order, remits the matter back to the respondent for proper consideration after issuing notice to all the respective parties. Such exercise shall be carried out by the respondent within a period of twelve (12) weeks from the date of receipt of a copy of this order.



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8. With the above said direction, this Writ Petition is disposed of. No costs.

02.01.2023

NCS: Yes / No
Index : Yes / No
Internet : Yes / No
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To

The Tahsildar,
Usilampatti Taluk,
Usilampatti,
Madurai District.



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K.KUMARESH BABU, J.

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