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W.P.No.1228 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2024

CORAM

THE HON'BLE MR. JUSTICE P.VELMURUGAN

W.P.No.1228 of 2024

K.Kutthambalam

... Petitioner

Vs.

1. The District Collector,
Collectorate,
Namakkal – 637 001,
Namakkal District.

2. The Revenue Tahsildar,
Rasipuram Taluk,
Namakkal District.

3. D.Senthilkumar

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 08.11.2023 made in Ci.Pa.01/2023/A5 passed by the second respondent, quash the same and consequently direct the respondents 1 and 2 to effect sub-division and grant patta in the name of the petitioner in respect of S.F.No.144/3A (1.53.00 Hrs) and S.F.No.144/3B (0.32.50 Hrs), Vadugam Village,



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Rasipuram Raluk, Namakkal District by considering his online application for Sub Division and Patta Transfer vide CAN No.133090213506538 and application No.2023/0105/09/230731 dated 26.05.2023.

For Petitioner : Mr.N.Manokaran

For R1 & R2 : Mr.T.Arunkumar
Additional Government Pleader

For R3 : Mr.S.Senthil

ORDER

This Writ Petition has been filed to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order dated 08.11.2023 made in Ci.Pa.01/2023/A5 passed by the second respondent, and to quash the same and consequently to direct the respondents 1 and 2 to effect sub-division and grant patta in the name of the petitioner in respect of S.F.No.144/3A (1.53.00 Hrs) and S.F.No.144/3B (0.32.50 Hrs), Vadugam Village, Rasipuram Raluk, Namakkal District by considering his online application for Sub Division and Patta Transfer vide CAN NO.133090213506538 and application No.2023/0105/09/230731 dated 26.05.2023.



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2. Heard the learned counsel appearing for the petitioner, the learned Additional Government Pleader appearing for the official respondents and the learned counsel for the private respondent and perused the materials available on record.

3. Learned counsel for the petitioner submitted that two sons of the petitioner's great grandfather had orally divided the properties in the year 1969, in which southern half of the property was allotted to Kumarasamy and the northern half of the property was allotted to the petitioner's grandfather Kuthambalam. The said Kumarasamy and his sons sold 50 cents out of 2.29 acres to one Vaithiyalingam under a sale deed.

4. The petitioner's paternal uncle Murugesan had executed a release deed in favour of the petitioner's father Kuppamuthu, who in turn had executed a settlement deed in favour of the petitioner. Hence the petitioner is entitled to the northern half share of the property and he is the absolute owner of the said property. A suit in O.S.No.79 of 2016 was



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filed by the said Kumarasamy and others on the file of the District Munsif Court, Rasipuram against the petitioner and others for the relief of partition. The trial court dismissed the suit filed by the Kumarasamy and others on merits on 20.04.2023. So far the judgment of the trial court has not been challenged by them. The petitioner submitted an application before the second respondent seeking subdivision and transfer of patta. Without issuing notice to the petitioner, based on the objections given by the third respondent herein alone, the second respondent rejected the petitioner's application. Challenging the impugned order passed by the second respondent, the petitioner has filed the present writ petition.

5. Learned Additional Government Pleader appearing for the official respondents submitted that there is no mentioning of specific boundaries in the joint patta. Without any partition or boundaries mentioned in the joint patta, the respondent cannot grant patta to the petitioner.



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6. Learned counsel for the private respondent/R3 submitted that though there are 13 pattatharars are in the subject property and they are not added as party in the present writ petition.

7. On a perusal of the records, it is found that no notice was issued to the petitioner/rival claimants/joint pattatharars/objectors/interested parties. On the objection made by the third respondent alone, the second respondent has passed the impugned order and the same has not been passed on merits. Hence, the impugned order passed by the second respondent is liable to be set aside. Accordingly, the impugned order is set aside. The second respondent is directed to consider the petitioner's application dated 26.05.2023 and issue notice to the petitioner, third respondent and also all the persons whose names are placed in the joint patta, and objectors/rival claimants/interested parties if any, and conduct enquiry in the manner known to law and pass orders on merits and in accordance with law. The said exercise shall be completed within a period of three months from the date of receipt of copy of this order.



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8. With the abovesaid direction, the Writ Petition is disposed of.

There shall be no order as to costs.

14.02.2024

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Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No

To

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