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W.P.No. 6510 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.11.2024

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No. 6510 of 2024 and
W.M.P.No.7242 of 2024

K.Palanivel

...Petitioner

Vs

1. The District Collector
Namakkal District,
Namakkal

2. The District Revenue Officer,
Namakkal District, Namakkal

3. The Revenue Divisional Officer,
Namakkal, Namakkal District.

4. The Tahsildar
Namakkal Taluk, Namakkal District

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking Writ of Certiorarified Mandamus to call for the records pertaining to the proceedings of the 2nd respondent in Moo.Mu.9573/2023/01 dated 03.01.2024 and quash the same as illegal, incompetent and ultravires and consequently direct the respondents to issue patta in the petitioner's name for the balance/remaining property



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measuring to an extent of 0 Acre 02 Cents comprised in S.No.107/1 situated at Thathaiyangarpatti Village, Namakkal Taluk, Namakkal District.

For Petitioner : Mr.R.Jayaprakash
For Respondents : Mr.M.R.Gokul Krishnan
Additional Government Pleader

ORDER

This writ petition has been filed for the following relief:

“To issue a Writ of Certiorarified Mandamus to call for the records pertaining to the proceedings of the 2nd respondent in Moo.Mu.9573/2023/01 dated 03.01.2024 and quash the same as illegal, incompetent and ultravires and consequently direct the respondents to issue patta in the petitioner's name for the balance/remaining property measuring to an extent of 0 Acre 02 Cents comprised in S.No.107/1 situated at Thatthaiyangarpatti Village, Namakkal Taluk, Namakkal District.”

2. It is the case of the petitioner that the property measuring an



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extent of 0 acre 52 cents comprised in Survey No.107/1 situated at Thathaiyangarpatti Village, Namakkal Taluk belonged to his grandfather, Karupa Goundar and Karupa Gounder's brother and mother, Rasa Gounder and Muthayammal respectively and patta for the property in Patta No.67 was issued in their name. In the year 1940, the petitioner's grandfather, Karupa Gounder along with his relatives had sold an extent of 40 cents out of 52 cents in Survey No.107/1 to one Muthu Goundar, S/o.Periya Gounder under a Sale Deed registered as Document No.1865 of 1940. In the year 1960, Karuppa Gounder and his legal heirs along with Rasa Gounder and his legal heirs, had executed a partition deed between them in which the property measuring 0 acre 15 cents in Survey No.107/1 was allotted to the share of Rasa Gounder and his legal heirs. Under a Sale Deed dated 16.03.1960, the said Rasa Gounder and his legal heirs had sold 0 acre 15 cents in Survey No.107/1 to Kandhappa Gounder, the petitioner's father. Kandhappa Gounder and his children, namely, the petitioner and his brother Raja Gounder, had entered into a Partition Deed dated



15.12.1978, wherein this property was allotted to the share of the petitioner and his brother Raja Gounder. The petitioner would submit that he and his brother have been in peaceful possession and enjoyment of the lands in question.

3. Subsequently, the petitioner and his brother had entered into a partition deed dated 30.09.1996. After the partition, the petitioner had applied for a separate patta in his name and patta No.508 was issued in respect of Survey No.107/1 and other properties owned by him. As per the patta No.508, the new Survey Number 107/1A was assigned to his property in S.No.107/1. However, in the patta for Survey No.107/1A, it was mentioned as 0.04.00 hectares, i.e. 0 acre 09.88 cents instead of 0 acre 15 cents. Immediately, the petitioner had given a representation to the respondents on 20.11.2021 to rectify the error in the patta. Since there was no response, he had filed W.P.No.5963 of 2022 on the file of this Court seeking a mandamus to consider the representation. During the hearing of the aforesaid writ petition, it was informed that orders



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have been pronounced on the petitioner's representation. Therefore, recording the above statement, the 4th respondent herein was directed to communicate the order copy to the petitioner within a period of two weeks. Thereafter, the 2nd respondent, by order dated 20.01.2023, rejected the petitioner's application for the correction of patta and directed the parties to approach the Civil Court. In this order, the 2nd respondent, while directing the petitioner to approach the Sub Court, had held that the petitioner was entitled only to an extent of 02 cents. Therefore, on the basis of this order, the petitioner had made a representation on 20.02.2023 to the 2nd respondent seeking issuance of patta for the balance of 0 acre 02 cents. The 2nd respondent, however, dismissed the said application by order dated 03.01.2024 and directed the parties to approach the Civil Court. Aggrieved by the same, the petitioner is before this Court.

4. Heard the learned counsels on either side.



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5. A perusal of the Partition Deed Dated 30.09.1996 would reveal that the petitioner has been allotted the “B” schedule property. Item No.7 in the said property relates to the subject matter of this writ petition. A mere reading of the above would clearly indicate that the petitioner was entitled only to an extent of 0.04.00 hectares in Survey No.107/1A. Therefore, the contention of the petitioner that he is entitled to 15 cents in Survey No.107/1A is without any basis. In case, the petitioner seeks a right over a larger extent, his remedy is to file a suit before the Civil Court. By the impugned order dated 03.01.2024, the 2nd respondent has rightly directed the parties to approach the Civil Court. I see no reason to disagree with this order of the 2nd respondent. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

22.11.2024

srn

To,

1. The District Collector

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Namakkal District,
Namakkal

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2. The District Revenue Officer,
Namakkal District,
Namakkal
3. The Revenue Divisional Officer,
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4. The Tahsildar
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Namakkal District



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P.T.ASHA, J.,

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