



W.P.No.33455 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2024

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.33455 of 2023

and

W.M.P.Nos.33255 and 33260 of 2023

P.Sekar

... Petitioner

versus

1. The Revenue Division Officer,
Perambalur Division,
Perambalur District.

2. The Tahsildhar,
Kunnam Taluk,
Perambalur District.

3. The Head Surveyor,
Kunnam Taluk,
Perambalur District.

4. Velmurugan

... Respondents

Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the second respondent pertaining to the sub-division and grant Patta No.2454,

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dated 14.09.2022 relating to SF.No.273/5B of Thungapuram (South) Village, Kunnam Taluk, Perambalur District and quash the same and consequently restore the joint patta.

For Petitioner : Ms.K.Priyavarshini
for Mr.S.Kamadevan

For Respondents : Mr.R.U.Dinesh Raj Kumar
Additional Government Pleader
for R1 to R3

No appearance for R4

ORDER

This writ petition has been filed to quash the impugned Patta vide Patta No.2454, dated 14.09.2022 issued by the second respondent/Tahsildar in favour of the fourth respondent herein in respect of S.F.No.273/5B of Thungapuram (South) Village, Kunnam Taluk, Perambalur District and consequently restore the joint Patta in S.F.No.273/5.

2. The learned counsel for the petitioner submitted that the petitioner herein and the fourth respondent herein have purchased the undivided share without any specific boundaries in S.F.No.273/5 of Thungaburam, Kunnam



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Taluk, Perambalur District from the legal heirs of one Ramasamy, who is the original owner of the subject property. Thereafter, the names of the petitioner and fourth respondent's were entered into the Patta as joint Patta. When the petitioner wanted to make subdivision, the fourth respondent did not agree for the same. No civil suit is filed to effect partition or identify the respective shares. While so, the fourth respondent taken steps to sub-divide the property and the respondents 2 and 3, without conducting survey or field inspection, and without issuing notice to the petitioner or his vendors, subdivided the subject property as S.Nos.273/5A and 273/5B and issued separate Patta in favour of the fourth respondent in respect of S.No.273/5B. As far as sub-division 273/5A is concerned, the respondents are maintaining Patta No.2414 incorporating the names of the legal heirs of the deceased Ramasamy, petitioner's name and the fourth respondent's name. While so, the fourth respondent obstruct the petitioner to enter into the subject property, though the petitioner has got title, right and interest over his 1/6th share in the subject property pursuant to the sale deed dated 01.06.2022. Hence, the petitioner made a representation dated 29.11.2022 to the first respondent to take appropriate action against the respondents 2 and 3



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herein. However, the first respondent forwarded the said representation to the respondents 2 and 3 herein, without appreciating the allegations therein.

The learned counsel for the petitioner further submitted that on the strength of the sub-division made in S.No.273/5B, the fourth respondent filed a writ petition in W.P.No.22547 of 2023, seeking to survey, measure and fix the boundaries in respect of the said property, without impleading the petitioner as a party and this Court by order dated 31.07.2023 disposed of the said writ petition.

3. Heard the learned counsel for the petitioner, the learned Additional Government Pleader appearing for the respondents 1 to 3 and perused the materials available on record.

4. Despite service of notice, the fourth respondent has not chosen to enter appearance either through a counsel or in person.

5. Admittedly, the petitioner herein is not a party in W.P.No.22547 of 2023. If the respondents received any application for subdivision or issuance



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of Patta, they ought to issue notice to the applicant as well as rival claimants/interested parties/objectors/adjacent owners of the four boundaries of subject property. The learned counsel for the petitioner mainly contended that without issuing notice to the petitioner and his vendors, the respondents sub-divided the property and issued patta. The official respondents have not filed counter affidavit or any document to establish that before passing the impugned order the respondents had issued notice to the writ petitioner herein and other interested parties and conducted an enquiry and thereafter passed the order on merits and in accordance with law.

6. Since the official respondents have not filed any counter justifying the issuance of impugned patta in favour of the fourth respondent, the impugned patta vide Patta No.2454 dated 14.09.2022 issued by the second respondent is quashed. The second respondent is directed to issue notice to the petitioner, fourth respondent herein as well as the rival claimants/interested parties/objectors/adjacent owners of the four boundaries of subject property, and after conducting enquiry in the manner known to law, pass appropriate orders on merits and in accordance with law.



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7. With the above direction, the Writ Petition is allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

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Index: Yes/No
Speaking Order : Yes / No
Neutral Citation Case : Yes/No
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To

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2. The Tahsildhar,
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P.VELMURUGAN, J.
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