



W.P.(MD) Nos.16089 and 17119 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.09.2024

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) Nos.16089 and 17119 of 2024

and

W.M.P(MD)Nos.13980, 13982, 14771 and 1892 of 2024

W.P(MD)No.16089 of 2024

A.Antony Joseph

.. Petitioner

Vs.

1.The Appellate Authority and Sub-Collector,
Cheranmahadevi,
Tirunelveli District.

2.The Tahsildar,
Radhapuram Taluk,
Tirunelveli.

3.Jem Jem Shakila

4.Nambirajan

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order of the 1st respondent in Pa.Mu.Aa3/Si.Pa.No.132(267)/2024 dated 01.07.2024 and quash the same and consequently, direct the respondents 1 and 2 to cancel the



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subdivision and restore the patta and FMB to its original position by making appropriate correction for S.No.178 situated at South Kallikulam Village, Radhapuram Taluk, Tirunelveli District.

For Petitioner	:	Mr.H.Arumugam
For R1 and R2	:	Mr.P.Thambidurai, Government Advocate
For R3	:	Mr.P.Muthuvel
For R4	:	Mr.M.Shabu Bose

W.P(MD)No.17119 of 2024

A.Antony Joseph

.. Petitioner

Vs.

1.The Tahsildar,
Radhapuram Taluk,
Tirunelveli.

2.Antony Michael Sabeena
3.Nambirajan

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for records relating to the impugned order of the 1st respondent in D.R.No. 2023/29/09/000606SD dated 26.09.2023 and quash the same and consequently direct the first respondent to sub-divide the land in original S.No.178, at South Kallikulam Village, Radhapuram Taluk, Tirunelveli District and issue patta to the petitioner and others by following the due process of law.



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For Petitioner	:	Mr.H.Arumugam
For R1	:	Mr.P.Thambidurai, Government Advocate
For R2	:	Mr.M.Shabu Bose
For R3	:	No appearance

COMMON ORDER

In order to appreciate and grant the relief claimed by the petitioner, it would be necessary to describe the property that is the subject matter of the dispute now.

2.The property in question viz., S.No.178 situated at South Kallikulam Village, Radhapuram Taluk, Tirunelveli, originally belonged to the family of Thainesh Nadar, under a registered partition deed, dated 29.05.1937 between the family members. The above said survey number is one of the properties that has been partitioned. The said land was divided into four portions. The northern end was allotted to Viyakula Nadar, Viswasa Nadar and Antony Savarimuthu Nadar. The total extent of S.No.178 is 2 acres 23 cents. Under a registered settlement deed, dated 12.08.1977, the aforesaid Viyakula Nadar and two others had settled their 32 cents in the northern most end to one Rajeswari,



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D/o. Antony Savarimuthu Nadar. The four boundaries surrounding the land, which has been settled on her, is described as the north and east by Odai, South by Rasaiah's land and West by Michale land. This property was thereafter sold by the said Rajeswari to the petitioner's father viz., Arther under a registered sale deed dated 08.09.1978. The said Arther had enjoyed the property till his life time and he passed away on 06.08.2006, leaving behind his surviving son, the writ petitioner, his mother Amalarani and his sister Jospin Rani. Therefore, they became the joint owners of the said land. By a registered release deed, dated 20.11.2006, his sister Jospin Rani had released her undivided 1/3rd share in the aforesaid property and his mother Amalarani had also settled her 1/3 undivided share to the petitioner under a registered settlement deed dated 06.07.2007. As a result, he became the absolute owner of this 32 cents and the other lands and he has been in possession and enjoyment of the same. The petitioner's father has not mutated his name in the patta and also not sub-divided.

3. Taking advantage of this situation, it appears that a fraudulent settlement deed was executed in favour of the third respondent settling



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the aforesaid extent of 32 cents by her husband under settlement deed, dated 03.11.2011. When the petitioner came to know about the same, he made a complaint. Based on which, an enquiry was conducted and in the enquiry, the third respondent had admitted that she had no interest in the property and hence, she had executed a relinquishment deed, dated 08.03.2012, admitting that she had no interest in the property. In the said document, the petitioner's property described as S.No.178/2 and the subdivision has been made without notice to any of the parties. Pursuant to the registration of release deed by the third respondent in favour of the petitioner, patta was mutated in the petitioner's name. However, the FMB sketch shows the boundaries, which did not correlate to the original deeds under which the documents of title prior in point of time, as also the documents under which the petitioner's father had purchased the property. Therefore, the petitioner in order to remove the same, requested the first respondent to cancel the subdivision made in S.No. 178/2. After conducting enquiry, the fourth respondent passed the impugned order dated 26.09.2023 and consequently direct the first respondent to subdivide the land in original S.No.178 and issue patta



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(W.P.(MD)No.17119 of 2024) and to quash the order passed by the first respondent dated 01.07.2024 and consequently, direct the first and second respondents to cancel the subdivision and restore the patta and FMB to its original position by making appropriate corrections(W.P.(MD)No.16089 of 2024).

4.The fourth respondent had filed a counter with documents showing his purchase and he was also aggrieved by the FMB that has now been prepared. Both the parties admitted that the FMB does not correlate to the original documents of the year 1937. Admittedly, the northern most boundary abutting the 32 cents of the petitioner, is an Odai. The western boundary is also the Odai and the eastern boundary is a road and originally it was a Michale land. Therefore, a mere perusal of the four boundaries would clearly show that the property that has been sold to the petitioner's father was the land on the northern more extreme.

5.The learned counsel for the petitioner has produced the FMB sketch, which would show that the patta has been granted with reference to S.No.178/2, which is shown in the eastern extreme of S.No.178



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stretching from north to south, whereas the documents of title would show that it is the entire northern extreme. Therefore, the impugned orders are set aside. The land in S.No.178 shall be surveyed and measured in tune with the documents of title that both the owners viz., the petitioner as well as the fourth respondent would produce. The Tahsildar shall issue notice informing the parties about the date of inspection and on receipt of the same, the petitioner as well as the fourth respondent shall be present with their documents of title and based upon the above documents, survey shall be conducted, property is measured and demarcated with boundaries and consequently, patta and FMB sketch shall be issued to the petitioner. The entire process shall be completed within a period of one month from the date of receipt of a copy of this order.

6. With the above directions, these Writ Petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

20.09.2024

NCC : Yes/No
Index : Yes/No
Internet : Yes



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P.T.ASHA, J.
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To

1.The Appellate Authority and Sub-Collector,
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Tirunelveli District.

2.The Tahsildar,
Radhapuram Taluk,
Tirunelveli.

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