



W.P.(MD) No.7232 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.07.2024

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.7232 of 2018

1.K.Maruthiah

2.Palanichamy @ Ganesan

... Petitioners

Vs.

1.The District Collector,
Madurai District, Madurai.

2.The Revenue Divisional Officer,
Madurai District, Madurai.

3.The Tahsildar,
Vadipatti Taluk,
Madurai District.

4.K.Nagalingam

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Mandamus, directing Respondents Nos.1 to 3 to conduct enquiry and cancel the Patta issued in favour of Respondent No.4 with regard to the property comprised in Patta No.287 in S.No.1110 situated at Katchaikatti Post, T.Vadipatti Taluk, Madurai District and provide joint Patta to the petitioners and Respondent No.4 within a time stipulated by this Court.



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For Petitioners : Mr.M.Mahaboob Fazil
For R1 to R3 : Mr.R.Suriyananth
Additional Government Pleader
For R4 : Mr.S.Ramesh

ORDER

This Writ Petition has been filed for issuance of a Writ of Mandamus directing the first to third respondents to conduct enquiry and cancel the Patta issued in favour of the fourth respondent for the property comprised in Patta No.287 in S.No.1110 situated at Katchaikatti Post, T.Vadipatti Taluk, Madurai District and provide Joint Patta to the petitioners and the fourth respondent.

2. The case of the petitioners is that the petitioners and the fourth respondent are brothers, sons of the late N. Karuppaiah, and they have been in joint possession of the land measuring an extent of 96 cents for over a period of 36 years. It is submitted that the fourth respondent has obtained the patta in his name from the third respondent Tahsildar by excluding the names of the petitioners.



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3. Under these circumstance, the petitioners have given representations to the second and third respondents to cancel the patta issued in the name of the fourth respondent and issue joint patta in the name of the petitioners and the fourth respondent.

4. The learned counsel for the fourth respondent would submit that there was an oral partition between the family members particularly the petitioners and the fourth respondent. It is pursuant to the aforesaid oral partition, the patta was issued in the name of the fourth respondent.

5. It is submitted that in respect of the cancellation of patta and issuance of fresh patta, the petitioners ought to have filed appeal before the second respondent under Section 12 of the Tamil Nadu Patta Pass Book Act, 1983 within a period of 30 days. It is further submitted that the petitioners cannot ask for any Mandamus from this Court.

6. On a specific query as to whether the petitioners have consented for issuance of patta in favour of the fourth respondent before the patta was granted by the third respondent, it is submitted that patta was granted after the enquiry was conducted by the third respondent.



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7. Having considered the submissions made by the learned counsel for the petitioners and the learned Additional Government Pleader for the first to third respondents and the learned counsel for the fourth respondent, I am of the *prima facie* view that the issuance of a patta in favor of the fourth respondent by the third respondent without the consent of the petitioners would be *void ab initio*, as a mere oral partition without evidence would not entitle the patta to the fourth respondent to the exclusion of the petitioners.

8. Under these circumstance, I am inclined to dispose of this Writ Petition by directing the second respondent to complete the enquiry and pass appropriate order on merits and in accordance with law, within a period of 12 weeks from the date of receipt of a copy of this order. Needless to state, the petitioners and the fourth respondent shall be heard before the orders are passed.

9. In the result, this Writ Petition stands disposed of. No costs.

19.07.2024

Index: Yes / No
Neutral Citation: Yes / No
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C.SARAVANAN, J.

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