



W.P.(MD) No.19580 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.08.2024

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.19580 of 2024

M.Vadivel

.. Petitioner

Vs.

The Tahsildar,
Kodaikanal,
Dindigul District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the Respondent to issue patta in favour of petitioner and his brothers legal heirs for the land having extent of 1 Acre 50 Cents in Survey Nos.458/1 and 458/2 correlating to old Survey Nos.1267/4 and S.F.No.1268/1 of Pannaikadu village, Kodaikanal on the strength of the decree in O.S.No. 134 of 2010, dated 28.03.2017 on the file of the Learned District Munsif Court, Kodaikanal on the basis of the petitioner's representation, dated 27.02.2023.

For Petitioner : Mr.I.Sam Jegan

For Respondent : Mr.D.S.Neduncheziyan
Government Advocate



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ORDER

The petitioner seeks a mandamus to the respondent to issue joint patta in favour of the petitioner and his brother's legal heirs in respect of an area measuring an extent of 1.50 acres in Survey No.458/1 and 458/2 which correlates to Old Survey No.1267/4 and S.F.No.1268/1, Pannaikadu Village, Kodaikanal in the light of the decree in O.S.No.134 of 2010 on the file of the District Munsif, Kodaikanal on the basis of the petitioner's representation, dated 27.02.2023.

2. The petitioner would submit that the lands in question originally belonged to his maternal grand-mother Perumalammal. She has purchased the same under a sale deed, dated 13.06.1956. Patta was also granted to her in Patta No.241 in respect of a total extent of 4 acres and 62 cents. During the resurvey, the revenue officials had assigned New Survey No.459/2 for the land measuring an extent of 1.40.0 hectares classifying the remaining extent of 1 acre 50 cents as poramboke and this extent was assigned Survey No.458. On coming to know about the same, his grand-mother had filed a suit in O.S.No.289 of 1991 on the file of the



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District Munsif, Periyakulam. In the said suit, the respondent had submitted that the lands have been classified as Natham poramboke and they did not have any proposal to assign them to landless poor. However, the suit came to be dismissed for default as the petitioner's grand-mother was suffering from poor health. Thereafter, the lands devolved on the petitioner's mother Ramuthayammal who was the only legal heir of his grand-mother. She had filed an application before the revenue officials to rectify the discrepancy. However, no action was taken and therefore, she had filed O.S.No.134 of 2010 on the file of District Munsif, Kodaikanal for a declaration that the correlation of the land measuring 4.62 acres in Old Survey No.1267/4 and 1268/1 during the resurvey to the lesser extent in Survey No.459/2 and the classification of 1 acre 50 cents as poramboke in Survey No.458 was arbitrary and erratic. After full-fledged contest, the suit was decreed in favour of his mother, against which there is no further appeal on the side of the respondents.

3. By virtue of the judgment, which directs the defendants to issue a fresh patta in favour of the plaintiff's mother, an application was made



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for necessary correction. Thereafter, the petitioner's mother passed away on 19.05.2021 leaving behind the petitioner and the legal representatives of his deceased brother Parameswaran. The petitioner has made a representation setting out the above on 27.02.2023 to which there has been no response. Hence, the writ petition.

4. The suit in O.S.No.134 of 2010 has been contested by the respondents and thereafter, by a judgment and decree, dated 28.03.2017, the learned District Munsif has decreed the suit in part. The relief of permanent injunction was rejected and the suit for declaration was decreed. The said judgment would read as follows:

“In the result, this suit is decreed in part. The resurvey conducted in S.F.No.1267/4 and S.F.No.1268/1 of Pannaikadu Village and the correlation on the above mentioned property is hereby declared as arbitrary and the same is hereby set aside. The defendants are hereby directed to issue a fresh patta for the suit property to the plaintiff by removing the revenue discrepancies in the manner known to law. In respect of the relief of permanent injunction, the suit is dismissed.”



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Therefore, a positive order has been issued to the respondents after hearing and considering the defence raised by the respondents before the Civil Court.

5. In the light of the aforesaid judgment and decree which has not been further challenged by the petitioner and as the same has attained finality, the writ is allowed by directing the respondent to resurvey the petition mentioned property by removing the discrepancies and in tune with patta no.241 and the sale deed, dated 13.06.1956 and as per the resurvey, issue joint patta in the name of the petitioner and his brother's legal heirs. The said exercise shall be completed within a period of eight (8) weeks from the date of receipt of copy of this order.

6. With the above said directions, this Writ Petition stands allowed.

No costs.

16.08.2024

NCC : Yes/No

Index : Yes/No

Internet : Yes

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P.T.ASHA, J.

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To

The Tahsildar,
Kodaikanal,
Dindigul District.

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