

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.06.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.15773 of 2015

K.B.Dasaran

... Petitioner

- Vs -

The Tahsildar,
Kundah Revenue Village,
Kundah,
The Nilgiris.

... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the respondent to consider the petitioner's representation dated 02.02.2015 and demarcate the subdivided property in R.S.No.229, Kundah Taluk, Kundah Village, The Nilgiris District by placing survey stones.

For Petitioner : Mr.R.Subramanian

For Respondents : Mr.V.Subbiah,
Special Government Pleader

ORDER

By consent, the writ petition itself is taken up for final disposal.

2. The petitioner claims that he is the absolute owner of the property measuring to an extent of 0.33.0 Hectare comprised in R.S.No.257/5 at Kundah Village, Kundah Taluk, The Nilgiris District. The petitioner would further state that his brother filed a suit in O.S.No.442 of 1990 before the District Munsif, Ooty, seeking permanent injunction on the ground that he is the absolute owner of the said property. The said suit was decreed by the learned District Munsif, Ooty. Aggrieved by the same, the petitioner preferred an

appeal in A.S.No.9 of 1992 before the District Judge, Udagamandalam. The learned District Judge, by judgement and decree dated 10.10.1994, allowed the appeal and set aside the decree and judgement of the trial court and dismissed the suit. Aggrieved by the decree and judgement of the first appellate court, the brother of the petitioner filed an appeal in S.A.No.1390 of 1994 before this court. He has also filed a writ petition in W.P.No.1709 of 1996 challenging the order passed by the District Revenue Officer, granting patta jointly in the name of co-owners. This court, by a common judgement dated 17.09.2002, dismissed both the second appeal and the writ petition and ultimately held that all the co-owners are entitled to 1/3rd share each. Thereafter, the petitioner approached the jurisdictional revenue authority for sub division of the land in question. But, the revenue authority has refused to entertain the application of the petitioner for the reason that the brother of the petitioner had filed a writ appeal. Aggrieved by the same, the petitioner filed a writ petition in W.P.No.10655 of 2003. This court by the order dated 24.11.2003 disposed of the said writ petition thereby directing the respondent to sub divide the property in question by following due process of law. Aggrieved by the same, once again, the brother of the petitioner filed a writ petition in W.P.No.13972 of 2004 questioning the order passed by the respondent sub dividing the property and obtained an order of interim stay. Now, the grievance of the petitioner is that despite the fact that his brother, who is the petitioner in W.P.No.13972 of 2004, died long back, no steps have been taken to substitute his legal heirs and the writ petition is pending. Since no action has been taken on the detailed application dated 02.02.2015 submitted earlier by the petitioner to sub divide the property, he has come forward with this writ petition.

3. Heard Mr. R.Subramanian, the learned counsel for the petitioner and Mr.V.Subbiah, the learned Special Government Pleader who accepts notice for the respondent.

4. This court, taking into consideration of the limited scope of the prayer sought for by the petitioner and without going into merits of the claim projected by the petitioner, directs the respondent to consider the representation dated 02.02.2015 made by the petitioner in accordance with law after putting on notice the legal heirs of the deceased brother of the petitioner viz., B.Linga Gounder and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner as well as the persons concerned.

5. This writ petition is, accordingly, disposed of.
Consequently, connected MP is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

kmk

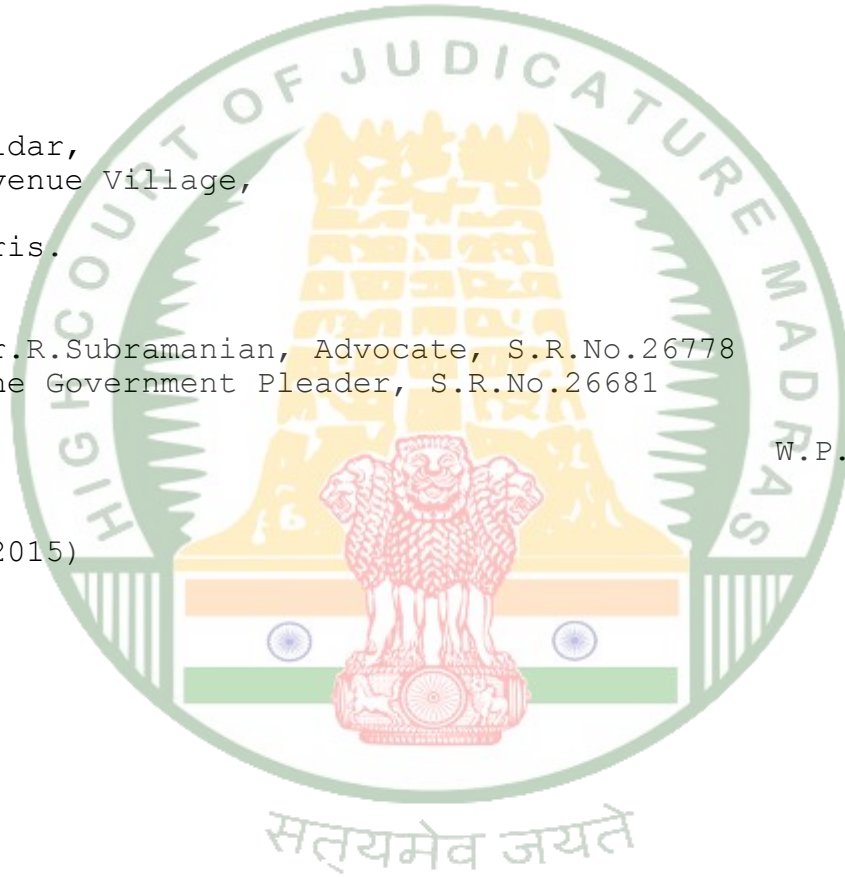
To

The Tahsildar,
Kundah Revenue Village,
Kundah,
The Nilgiris.

+1cc to Mr.R.Subramanian, Advocate, S.R.No.26778
+1cc to the Government Pleader, S.R.No.26681

W.P.No.15773 of 2015

KK(CO)
CA(17/06/2015)



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