

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.10089 of 2016

S.Manimekalai

... Petitioner

vs.

The Tahsildar,
The Office of the Tahsildar,
Coimbatore *North,
Coimbatore.

... Respondent

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the respondent herein to consider and take appropriate action in application for Sub Division Patta transfer vide can No.0331202044523 and application No.2016/0105/12/000941 dated 28.1.2016 within the stipulated time prescribed by this Court.

For Petitioner : Mr.A.Selvendran

For Respondent : Mr.M.Dig Vijaya Pandian,
Addl. Govt. Pleader

ORDER

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

2. The petitioner has come up with the present writ petition for a mandamus, directing the respondent herein to consider and take appropriate action in application for Sub Division Patta transfer vide can No.0331202044523 and application No.2016/0105/ 12/000941 dated 28.1.2016 within the stipulated time prescribed by this Court.

3. The case of the petitioner, in brief, is as follows:-

(a) The property measuring to an extent of 1.54.1/4 acres of agricultural land comprised in Survey No.743, situated at Kalapatti Village, Coimbatore Taluk, Coimbatore District was originally purchased by one Chinnappa Konar vide sale deed No.3490/1934 dated 22.6.1934. After his death, his legal heirs viz., Ganesan, Ramathal, Arukkaniammal and Lakshmi Ammal had inherited the said property. In the year 1990, they settled the same among themselves. In the said settlement, the land in S.No.743 measuring to an extent of 3 acres and ½ cents was allotted to Ramathal. After her death, the petitioner's husband Selvaraj and his brother Devaraj and one Gomathi, the daughter of Ganesan had partitioned the said property in the year 1990 into two equal shares. In the said partition, the northern part measuring to an extent of 1 acre and 54 ¼ cents was allotted to the petitioner's husband and his brother Devaraj.

(b) After getting possession, the petitioner's husband and his brother Devaraj constructed a RCC terrace building with a carpet area of 1000 sq.ft., which was divided into two portions. One is facing the West and the other is facing the East. The petitioner's family are residing in the portion, which is facing the West. The petitioner's husband obtained electricity service connection for their house in their name and they are enjoying the same.

(c) While so, the said Gomathi filed a suit in O.S.No.270 of 2000 on the file of the learned I Additional District Munsif, Coimbatore, against the petitioner's husband to direct the petitioner's husband to vacate and hand over vacant possession of the said property. The said suit was decreed as against the petitioner's husband. Challenging the same, the petitioner's husband preferred an appeal in A.S.No.42 of 2003 before the learned Principal District Judge, Coimbatore and the said appeal was also dismissed. Thereafter, the petitioner's husband preferred a second appeal before this Court in S.A.No.782 of 2006 and by judgment dated 9.6.2015, this Court allowed the second appeal thereby dismissed the suit.

(d) The petitioner's husband died on 21.10.2014. As the legal heir of her husband, the petitioner made an application for Sub Division Patta transfer vide can No.0331202044523 and application No.2016/0105/12/000941 dated 28.1.2016 before the first respondent and the second respondent issued a circular reference No.IOL : 12/000941 stating that the land will be measured on 26.2.2016 at 11.00 a.m. But, the said Gomathi did not allow the respondent to measure the said land and she stood as a hindrance. Hence, left with no other alternative, the petitioner has come up with the present writ petition seeking a direction to the respondent herein to consider and take appropriate action in application for Sub Division Patta

transfer vide can No.0331202044523 and application No.2016/0105/12/000941 dated 28.1.2016 within the stipulated time.

4. I have heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader, who has taken notice on behalf of the respondent.

5. Considering the facts and circumstances of the case and considering the submissions made on either side, this Court directs the respondent to consider the application of the petitioner for Sub Division Patta transfer vide can No.0331202044523 and application No.2016/0105/12/000941 dated 28.1.2016 and pass appropriate orders, on merits and in accordance with law, by affording an opportunity of personal hearing to the petitioner as well as to the necessary parties, if any, within a period of six weeks from the date of receipt of a copy of this order. It is made clear that this Court is not expressing any opinion with regard to the claim made by the petitioner and it is for the respondent to consider the claim of the petitioner strictly on merits and in accordance with law. The writ petition is disposed of accordingly. No costs.

-s/d-

Assistant Registrar(CS-II)

Dated:21/03/2016

*Amended as per order of
this Court dated 30/3/2016
in WMP 9699/16 in WP.10089 of 2016

Sd/-

Assistant Registrar(CS-VII)

Dated:30/03/2016

True Copy

WEB COPY

Sub-Assistant Registrar

sbi

To

The Tahsildar,
The Office of the Tahsildar,
Coimbatore ***North**,
Coimbatore.

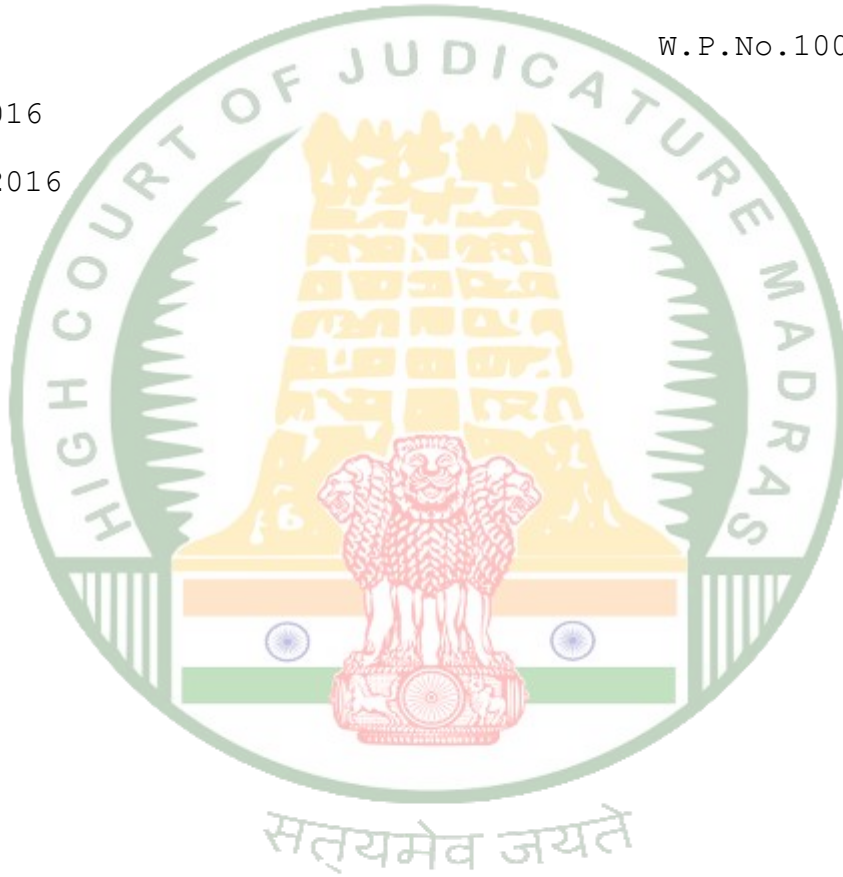
Amended Order to be
Substituted to the order
already despatched on
21/3/2016

+6 ccs to Mr.A.Selvendran Advocate sr.***19673**
+1 cc to Government pLeader sr.17688

W.P.No.10089 of 2016

aa21/03/2016

srg 30/3/2016



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