THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.13361 of 2016

R.Nehru ... Petitioner

vs.

1.The Revenue Divisional Officer,
Chengalpattu,
Kancheepuram District.

2.The Tahsildar,
Thirukkalukundram Taluk,
Kancheepuram District. ... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus, directing the second respondent to dispose of the petitioner's petition dated 11.3.2014 for issuance of patta for an extent of 16 ¾ cents in S.No.119/1G1 and an extent of 3 ½ cents in S.Nos.37/8B2, 37/8B3, totalling 20 ¼ cents as per the directions of the first respondent.

For Petitioner : Mr.R.Sreerangan

For Respondents : Mr.S.Pattabiraman, Govt. Advocate.

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 second respondent to dispose of his petition dated 11.3.2014 for issuance of patta for an extent of 16 ¾ cents in S.No.119/1G1 and an extent of 3 ½ cents in S.Nos.37/8B2, 37/8B3, totalling 20 ¼ cents as per the directions of the first respondent.

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

(a) The land in Survey No.119/1 measuring to an extent of 16 ¾ cents and the land in Survey No.37/8 measuring to an extent of 35 ¾ cents were purchased by one Marimuthu Mudaliar under a registered sale deed dated 10.6.1965 vide document No.1471 of 1965 on the file of SRO, Thirukkalukundram. From the date of purchase, the said Marimuthu Mudaliar was in possession and enjoyment of the said lands along with his brother Ramakrishna Mudaliar, the petitioner's father. Subsequently, the land in Survey No.119/1 was sub-divided and new Survey No.119/1G was given for an extent of 16 ¾ cents and the land in Survey No.37/8 was sub-divided and new Survey Nos.37/8B2, 37/8B3 and 37/8B4 were given for an extent of 35 ¾ cents.

(b) There was an oral partition between the said Marimuthu Mudaliar and the petitioner's father Ramakrishna Mudaliar in the year 1977. In the said partition, the petitioner's father Ramakrishna Mudaliar was allotted land to an extent of 16 ¾ cents in N.S.No.119/1G and Marumuthu Mudaliar was allotted land to an extent of 35 ¾ cents in Old Survey No.37/8 and new Survey Nos.37/8B2, 37/8B3 and 37/8B4. Based on the said oral partition, there was a division in status and the same was acted upon by mutation of revenue records. Thereafter, further sub-division was made to the abovesaid land and new survey No.119/1G1 was given.

(c) Thereafter, there was a registered partition deed dated 25.9.2006 between the said Ramakrishna Mudaliar and his sons, in which an extent of 16 ¾ cents of land in Survey No.119/1G1 was allotted to the petitioner's brother Arul and an extent of 35 ¾ cents in Survey No.37/8 and new Survey Nos.37/8B2, 37/8B3 and 37/8B4 was allotted to one Velmurugan. The said Arul settled his land in Survey No.119/1G1 in favour of the petitioner under a settlement deed dated 10.7.2009 registered as document No.2858 of 2009 on the file of SRO, Thirukkalukundram and ever since, the petitioner is in possession and enjoyment of the same and the mutation of his name in the revenue records was also effected.

(d) Thereafter, petitioner purchased the land measuring to an extent of 3 ½ cents (1557 sq.ft.) comprised in S.Nos.37/8B2, 37/8B3 and 37/8B4 from the said Velmurugan by way of registered sale deed dated 19.11.2013 vide document No.6913 of 2013 at SRO, Thirukkalukundram. Now, the petitioner is the absolute owner of the lands measuring to an extent of 16 ¾ cents in Survey No.119/1G1 and an extent of 3 ½ cents in S.Nos.37/8B2, 37/8B3 totalling 20 ¼ cents. He gave a petition dated 11.3.2014 before the second respondent to make necessary sub-division and issue patta in his favour in respect of the above said lands. But, the second respondent has not taken any action on his petition. Hence, the petitioner gave a representation dated 19.2.2015 to the first respondent, who in turn, directed the second respondent to conduct a detailed enquiry and inspection and submit a report. But, till date, the second respondent has not taken any action on the petition filed by the petitioner. Hence, left with no other alternative, the petitioner has come up with the present writ petition for the relief set out earlier.

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

5. Considering the facts and circumstances of the case and considering the submissions made on either side, this Court directs the second respondent to consider the petition dated 11.3.2014 filed by the petitioner for issuance of patta for an extent of 16 ¾ cents in S.No.119/1G1 and an extent of 3 ½ cents in S.Nos.37/8B2, 37/8B3, totalling 20 ¼ cents, as per the directions of the first respondent and pass appropriate orders / take appropriate action, 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 twelve weeks from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion with regard to the merits of the claim made by the petitioner and it is for the second 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.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

sbi

To

1.The Revenue Divisional Officer,
Chengalpattu,
Kancheepuram District.

2.The Tahsildar,
Thirukkalukundram Taluk,
Kancheepuram District.

1 cc to Government Pleader, Sr. 22759
1 cc to Mr.R. Sreerangan, Advocate, Sr. 22668

W.P.No.13361 of 2016

KR/22/4/16