

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.14849 of 2016

Abdul Sait

... Petitioner

vs.

- 1.The District Collector,
Tiruvannamalai District.
- 2.The District Revenue Officer,
Tiruvannamalai District.
- 3.The Revenue Divisional Officer,
Tiruvannamalai
Town and District.
- 4.The Tahsildar,
Tiruvannamalai
Town and District.
- 5.R.Kalirathinam
- 6.A.Murugan
- 7.M.Rajendran
- 8.R.Valli

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the third respondent to consider the petitioner's representation dated 16.2.2016.

For Petitioner :	Mr.B.Ramakrishnan
For Respondents :	Mr.V.Jayaprakash Narayanan, Spl. Govt. Pleader, for R.1 to R.4

ORDER

The petitioner has come up with the present writ petition for a mandamus, directing the third respondent to consider his representation dated 16.2.2016.

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

(a) The petitioner's father was the absolute owner of the property measuring to an extent of 1 acre and 64 cents comprised in S.Nos.86/1, 87 (new survey Nos.86/1B3, 87/48A3, 87/53) situated at Vadaandapattu Village, Tiruvannamalai Taluk. The petitioner along with his three brothers viz., Abdul Basheer, Nawabjan and Abdul Munaf, has divided the said property into four equal shares orally and they had been enjoying 0.41 cents each without any hindrance. Subsequently, his brother Abdul Munaf sold his property measuring to an extent of 0.41 cents in favour of one Shahajahan vide document No.1490 of 1998 dated 25.9.1998, who in turn, sold the same in favour the fifth respondent.

(b) While so, the Government of Tamil Nadu had acquired the land measuring to an extent of 0.09 cents out of the total extent of 0.10.5 cents in S.No.86/1 and another extent of 0.27.5 cents out of the total extent of 0.30.5 cents in S.No.87/48A3 from the fifth respondent for laying by-pass road, vide document Nos.5029 of 2005 and 2653 of 2006 dated 22.7.2005 and 6.4.2006 respectively. The remaining portion of land measuring to an extent of 0.1.5 cents out of the total extent of 0.10.5 cents in S.No.86/1 and 0.3.0 cents out of the total extent of 0.30.5 cents in S.No.87, in total 0.4.5 cents are enjoyable by the fifth respondent. But, suppressing all these facts, the fifth respondent had given a general power of attorney in favour of the sixth respondent vide document No.2165 of 2014 dated 10.3.2014 in respect of the land measuring to an extent of 0.35.5 cents. But, it is actually wrong and the actual available total extent is only 0.30.5 cents.

(c) The sixth respondent, in the capacity of general power of attorney of the fifth respondent sold one of the items of the divided property measuring to an 0.05 cents of land out of the total extent of 0.10.5 cents in S.No.86/1 vide document No.2220 of 2014 dated 11.3.2014 in favour of the seventh respondent. The other two items of the divided property measuring to an extent of 0.02 cents out of the total extent of 0.35.5 cents illegally in S.No.87/48A3 and 0.02 cents out of the total extent of 0.35.5 cents illegally in S.No.87/53 in favour of the eighth respondent vide document No.2233 of 2014 dated 12.3.2014. The respondents 7 and 8 have also got patta in their name vide patta Nos.1624 and 1625 for an extent of 0.2.0 ares and 0.1.5 ares respectively by showing excess land and accordingly, they are trying to interfere with the petitioner's possession of nearly 4 cents. In this regard, the petitioner made a representation dated 16.2.2016 to the third respondent and another representation to the first respondent on 22.2.2016. But, till

date, no action was taken on the said representations. Hence, left with no other alternative, the petitioner has come up with the present writ petition for the relief set out earlier.

3. I have heard the learned counsel appearing for the petitioner and the learned Special Government Pleader, who has taken notice on behalf of the respondents 1 to 4.

4. Considering the facts and circumstances of the case and considering the submissions made on either side, this Court directs the third respondent to consider the representation of the petitioner dated 16.2.2016, by affording an opportunity of personal hearing to the petitioner as well as to the respondents 5 to 8 and other necessary parties, if any, and pass appropriate orders / take appropriate action, on merits and in accordance with law, 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 projected by the petitioner and it is for the third 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 (CSVI)

True Copy

Sub-Assistant Registrar

sbi

To

1. The District Collector,
Tiruvannamalai District.

2. The District Revenue Officer,
Tiruvannamalai District.

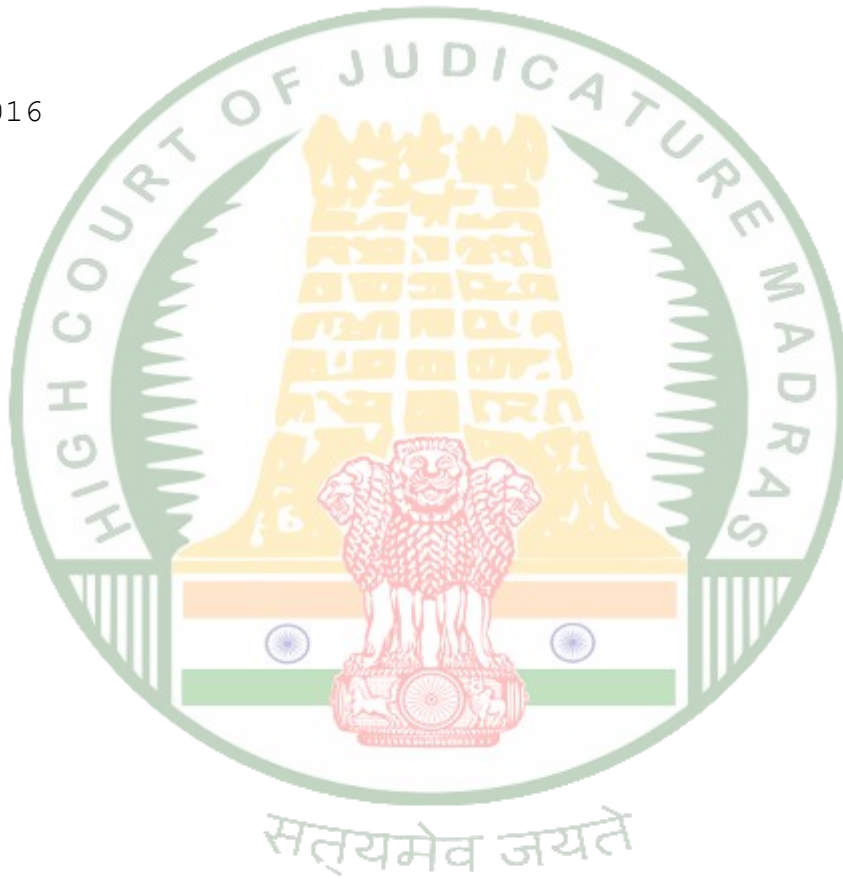
3. The Revenue Divisional Officer,
Tiruvannamalai
Town and District.

4.The Tahsildar,
Tiruvannamalai
Town and District.

+1 cc to the Government Pleader sr.25379
+1 cc to Mr.B.Ramakrishnan Advocate sr.25617

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