

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.15116 of 2016

Masilamani

... Petitioner

vs.

1.The District Collector,
Villupuram District,
Villupuram.

2.The Revenue Divisional Officer,
RDO
Villupuram Division,
Villupuram.

3.The Tahsildar,
Vannur Taluk,
Vannur.

... 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 consider the petitioner's representation dated 28.10.2015, which was forwarded by the first respondent by its letter dated 06.11.2015, on merits after conducting the enquiry within the stipulated time as may be fixed by this Court.

For Petitioner : Mr.M.Ravibharathi

For Respondents : Mrs.P.Rajalakshmi, GA

ORDER

The petitioner has come up with the present writ petition for a mandamus, directing the second respondent to consider his representation dated 28.10.2015, which was forwarded by the first respondent by his letter dated 06.11.2015, on merits, after conducting enquiry, within the stipulated time as may be fixed by this Court.

2. The case of the petitioner, as per the averments made in the writ petition, is as follows:

2.1 The petitioner's father Sanjeevaraja Kounder executed an unregistered Will dated 20.04.1974 in respect of his properties situated in various survey numbers at Uppuvellore, Vanur Taluk, Villupuram District and he died leaving behind him the following persons as his legal heirs viz., (i)Thaiyanayaki Ammal (wife) (ii)Lakshmana Kounder (son) (iii)Ramadoss (son) (iv)Masilamani (son) and (v)Pushpagandhi Ammal (Daughter). Thereafter, the petitioner's mother Thaiyanayaki Ammal executed a partition deed dated 19.01.1987 in respect of the properties in S.Nos.419/1, 419/2, 419/3, 420/1, 420/5, 381/4, 381/5, 251/13, 408/8, 344/70, 135/6, 135/7, 134/1, 139/5, 133/11, 134/5, 117/12, 419/1, 419/2, 419/3, 420/1, 420/5, 251/13 and 408/8 etc.

2.2 The petitioner was looking after the agricultural lands and he was allotted a portion of the ancestral property under the said partition deed. In the year 2012, he fell down and had sustained a fracture in his right leg, due to which, he is unable to move anywhere and he has become bedridden. Hence, his family members are taking care of the agricultural work carried on in the ancestral property allotted to him.

2.3 Taking advantage of the petitioner's health condition, his younger brother Ramadoss and his family members were interfering with his peaceful possession and enjoyment of the properties. Therefore, the petitioner filed a suit in O.S.No.38/2011 on the file of the District Munsif Court, Vanur against them for declaration and injunction and also obtained an order of permanent injunction restraining them from interfering with his peaceful possession and enjoyment of the properties by a decree dated 30.09.2011.

2.4 Thereafter, the said Ramadoss and his family members have injected chemicals into the petitioner's cashew trees and junk fruit trees. They also trespassed into his paddy field and cultivated on the same illegally. When the same was questioned, they assaulted the petitioner's family members, which compelled the petitioner's wife to lodge the police complaints, which culminated into CC Nos.9/2011 and 9/2013 on the file of the Judicial Magistrate, Vanur and the same are pending against them.

2.5 In the year 2013, the said Ramadoss and his family members have demolished the petitioner's houses. In this regard, the petitioner's wife lodged a complaint on 26.03.2013 before the Inspector of Police, Kilianur Police Station. As there was no response, she filed a petition in Crl.OP.No.14879 of 2014 seeking a direction to register the said complaint.

2.6 Thereafter, the police official called upon both the parties for enquiry. At that time, the said Ramadoss produced a copy of Patta No.667 dated 30.04.1996 issued by the Special Tahsildar, Vanur in favour of him and also in favour of his brother Lakshmanan in respect of the ancestral house. Though the said ancestral house was allotted to all the three sons viz., petitioner's elder brother Lakshman, the petitioner and his younger brother Ramadoss under the partition deed dated 19.01.1987, Patta No.667 dated 30.04.1996 was alleged to have been issued only in favour of Lakshmanan and Ramadoss and the petitioner's name was omitted to be mentioned in the patta, in order to grab his house allotted in the partition deed.

2.7 Further, based on patta No.667, the said Lakshmanan and Ramadoss settled the house properties to and in favour of their respective legal heirs. After the death of the said Lakshmanan, his legal heirs sold their properties including the portion of the petitioner's house property. Hence, the petitioner filed a suit in O.S.No.54 of 2014 before the District Munsif Court, Vanur, which is pending. Subsequently, his wife made a representation dated 28.10.2015 to the first respondent to cancel the said Patta No.667 and issue a fresh patta in favour of the petitioner. On receipt of the same, the first respondent by his letter dated 06.11.2015 forwarded the same to the second respondent and directed him to conduct enquiry and take further action. However, till date, no action has been taken by the second respondent. Therefore, the petitioner has filed the present writ petition for the above stated relief.

3. Heard the learned counsel for the petitioner and the learned Government Advocate, who took notice for the respondents.

4. Considering the facts and circumstances of the case, this Court directs the second respondent to conduct enquiry on the representation dated 28.10.2015, which was forwarded by the first respondent, by his letter dated 06.11.2015, by affording an opportunity of personal hearing to the petitioner as well as to all the necessary parties, if any and pass appropriate orders. It is made clear that this Court is not expressing any opinion with regard to the merits of the claim made by the petitioner and it is for the second respondent to pass appropriate orders purely on merits and in accordance with law. The entire exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

5. The writ petition is disposed of accordingly. No costs.
rk

-s/d-
Assistant Registrar (CS-II)

True Copy

Sub-Assistant Registrar

To

1. The District Collector,
Villupuram District,
Villupuram.

2. The Revenue Divisional Officer,
RDO
Villupuram Division,
Villupuram.

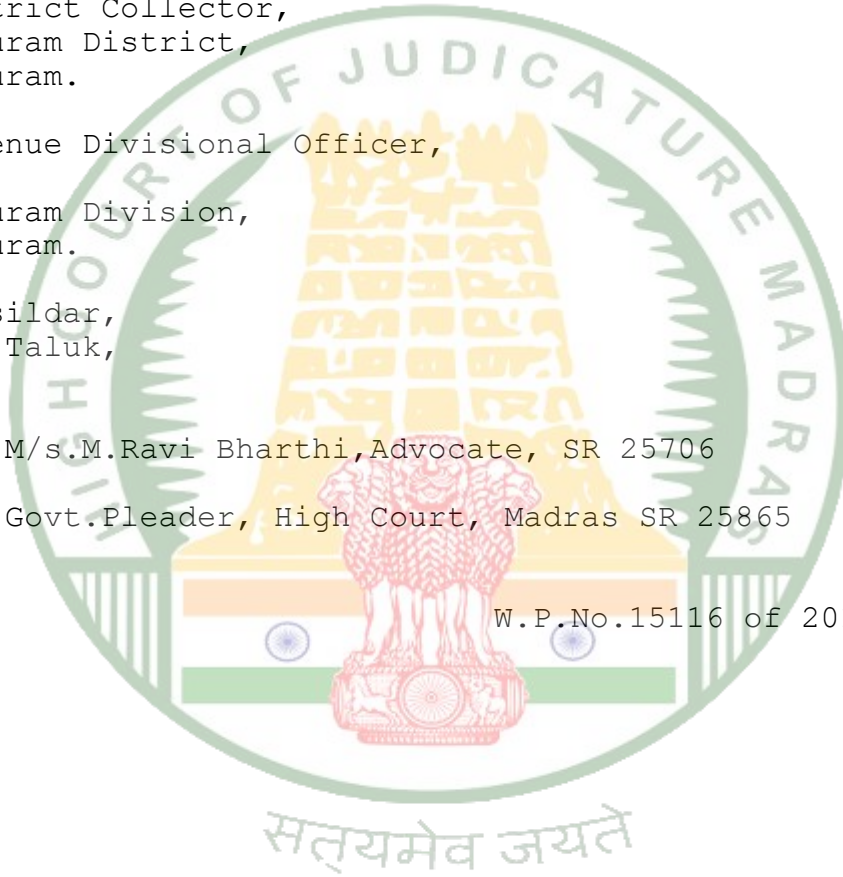
3. The Tahsildar,
Vannur Taluk,
Vannur.

+ 1 cc to M/s.M.Ravi Bharthi, Advocate, SR 25706

+ 1 cc to Govt. Pleader, High Court, Madras SR 25865

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W.P.No.15116 of 2016



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