

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.11.2016

CORAM:

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

W.P.No.23011 of 2016

D.K.Basha

.. Petitioner

Vs.

1. The Commissioner,
Land Administration,
Chepauk, Chennai.
2. The District Collector,
Dharmapuri District,
Dharmapuri.
3. District Revenue Officer,
Appellate Authority,
Dharmapuri District,
Dharmapuri.
4. Revenue Divisional Officer/Sub-Collector,
Dharmapuri District,
Dharmapuri.
5. The Tahsildar,
Dharmapuri Taluk,
Dharmapuri.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the first respondent to dispose the petition of the dated 22.2.2013 within a fixed time frame.

For Petitioner : Mr.M.Selvam

For Respondents: Mr.A.Kumar
Special Government Pleader

ORDER

This Writ Petition has been filed to direct the first respondent to dispose the petition of the dated 22.2.2013 within a fixed time frame.

2. The case of the petitioner is that the land to an extent of 180 sq.mt. in Old S.No.85/A1/A1/C1/C1, T.S.No.187 of Vellagoundenpalayam village originally belong to Kanthoombee and she settled the said land in favour of her sons Sulthan Ameerkhan and raja @ Moideen Khan and the patta in respect of the said land is a joint patta. As there was a dispute in the family, a suit in O.S.No.40 of 1973 on the file of the District Munsif, Dharmapuri was filed for partition. The said suit was decreed by a Judgment and decree dated 26.08.1976. The appeal filed in this regard in A.S.No.84 of 1977 was allowed setting aside the judgment of the Trial Court. However, this Court in the Second Appeal in S.A.No.1463/1978 on 25.03.1982 reversed the Order in A.S.No.84 of 1977 and restored the original decree dated 26.08.1976 made in O.S.No.40 of 1973 by the District Munsif, Dharmapuri. The petition filed for final decree in I.A.No.817 of 1978 in O.S.No.40 of 1973 was also dismissed on 23.04.2009. Now the property remains undivided and no one can claim any individual right in the same.

3. While so, one Nizamudeen has approached the fourth respondent and without any proof or document had obtained a separate patta in his favour. The fifth respondent by his proceeding in Na.Ka.No.29720/2010/A7/dated 08.01.2011 had issued an order No.RTR 113/09 issuing separate patta by subdividing the land in S.No.197 as 197/1 and 197/2. The fourth respondent has no jurisdiction to effect partition of the undivided property and no enquiry was conducted in this regard. Therefore, the petitioner preferred an appeal before the fourth respondent and the fourth respondent by an order dated 03.02.2012 in Me.Mu.7478/10/A3 cancelled the patta issued by the third respondent and restored the status as before the order of the fifth respondent. While so, the said Nizamuddin filed a suit in O.S.No.157 of 2010 before the Subordinate Judge, Dharmapuri for declaration of his title. As the petitioner is one of the defendant in the said suit, he has filed his written statement and the said suit is pending. Aggrieved by the order of the 4th respondent, the said Nizamuddin preferred an appeal before the third respondent and the third respondent without appreciating the facts of the case by his order dated 03.12.2012 set aside the order of the fourth respondent and on the basis of the order of the third respondent, the fifth respondent is effecting

mutation of the revenue records. Therefore, the petitioner has preferred a revision before the first respondent on 22.02.2013 and till date the said revision petition is pending before the first respondent without any further action. Hence, the petitioner has come forward with the present Writ Petition.

4. Heard the learned Additional Government Pleader for the respondents. There is no representation for the petitioner.

5. Considering the submissions of the learned Additional Government Pleader, this Court directs the first respondent to dispose of the revision filed by the petitioner dated 22.02.2013 and pass appropriate order on merits and in accordance with law.

6. With the above directions, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

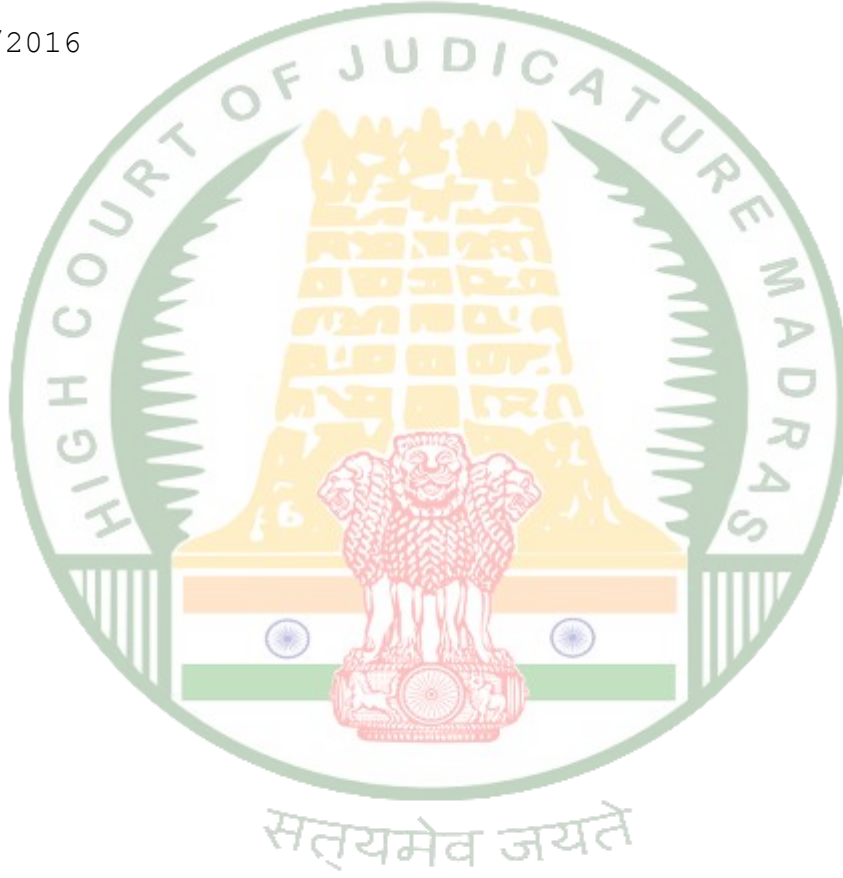
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+1cc to Mr.M.Selvam, Advocate Sr.65336
+1cc to the Special Government Pleader Sr.65489

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