

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.3847 of 2016

1 S.Selvarasu ... Petitioner

vs.

1 The Sub Registrar
Thalaivasal Sub Registrar Office
Attur Taluk, Salem District ... Respondent

PRAYER : Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus directing the respondent to dispose the petitioner's representation on 21.01.2016.

For Petitioner : Mr.V.Elangovan
For Respondent : Mr.S.Pattabiraman,
Government Advocate

O R D E R

The prayer in the writ petition is to issue a Writ of Mandamus directing the respondent to dispose of the petitioner's representation dated 21.01.2016.

2. The case of the petitioner is that the land situated in Survey No.108/8 to an extent of 0.0150.5 Sq.Mtr., Kamakkapalaym Village, Attur Taluk, Salem District is classified as Grama Natham in Revenue records. The land was in possession of the petitioner's grandfather Velayuthamudalir and one Ellappamudaliar for the past 40 years and they put up thatched house and were residing in the said house. During the year 1991, the Special Tahsildar had conducted a spot enquiry and reported that the petitioner's father, viz., Sellakuarrupan was residing along with his father Velayuthamaudaliar for the past 30 years and the Tahsildar issued a Patta in No.110 in favour of petitioner's father. In the year 2004, the petitioner's father registered a Settlement Deed in favour of his wife. Thereafter, the petitioner's father and mother executed a Will during the

year 2010 in favour of petitioner's sister. The petitioner made a representation to the Tahsildar, Attur on 10.3.2015, requesting to conduct enquiry and declare that the above land is petitioner's ancestral property. Thereafter, the Tahsildar, Attur, after conducting field enquiry, passed an order in his application stating that the above land is the petitioner's father's mother's property. After obtaining such certificate from the Tahsildar, Attur, the petitioner made a representation to the respondent on 21.1.2016, requesting to cancel the Will executed by the petitioner's parents. Since the said representation was not considered till date, the petitioner has come forward with the present Writ Petition with the aforesaid prayer.

3. The learned Government Advocate, on taking notice for the respondent, vehemently opposed to give a direction, by stating that the petitioner has to work out his remedy only before the Civil Court.

4. Heard the submissions of the learned counsel for the petitioner and the learned Government Advocate.

5. Since as on date the representation made by the petitioner is pending before the respondent, irrespective of the submission made by the learned Government Advocate, this Court is of the opinion that direction can be given to the respondent to dispose of the said representation. Accordingly, without going into the merits of the claim made by the petitioner, this Court directs the respondent to consider the representation of the petitioner dated 21.01.2016, by affording personal hearing to the petitioner as well as to the necessary parties if any, and pass appropriate order, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion on the merits of the claim made by the petitioner. It is for the respondent to pass appropriate order purely on merits.

5. With the above direction, this writ petition is disposed of. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

ajr

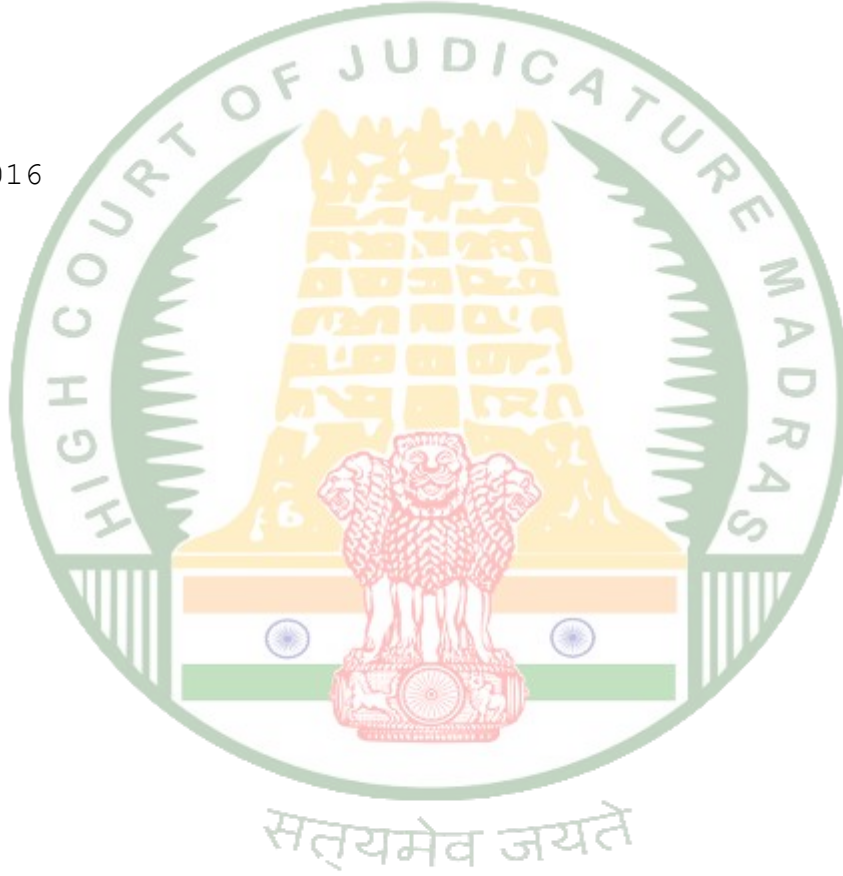
To

1 The Sub Registrar
Thalaivasal Sub Registrar Office
Attur Taluk, Salem District

+1 cc to Mr.V.Elangovan Advocate vide sr.6834
+1 cc to Government Pleader sr.6938

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