

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

W.P.No.41799 of 2016

G.Maruthachalam

... Petitioner

Versus

The Tahsildar,
Sulur,
Coimbatore

... Respondent

Petition filed under Article 226 of the Constitution of India, seeking for the issuance of writ of Mandamus to direct the respondent herein to implement the orders dated 04.01.2013 passed by the Revenue Divisional Officer, Coimbatore, by effecting subdivision and changes in the patta in respect of petitioner's land in S.F.No.72/1 and 74/1 of Pattanam Village, Sulur Division, Coimbatore - 16

For Petitioner : Mr.C.R.Prasannan

For Respondent : Mr.A.N.Thambidurai,
Special Government Pleader

ORDER

By consent of both parties, the present writ petition is taken up for final disposal.

2. The prayer in the writ petition is to direct the respondent herein to implement the orders dated 04.01.2013 passed by the Revenue Divisional Officer, Coimbatore, by effecting subdivision and changes in the patta in respect of petitioner's land in S.F.Nos.72/1 and 74/1 of Pattanam Village, Sulur Division, Coimbatore - 16.

3. The case of the petitioner is that his father Gopalsamy Konar and his brothers namely Palaniappa Konar, Velappa Konar, Arumugha Konar and Govindasamy Konar partitioned the properties situate at Pattanama Village, Coimbatore District, under a registered Deed of Partition dated 24.04.1958 and his father was allotted 'E' Schedule property in the partition deed measuring an extent of 93 acres in S.F.No.72/1 and 2.00 acres in S.F.No.74/1. After partition of the properties, he was in possession of the property.

4. According to the petitioner, the aforesaid lands were subdivided on the basis of wrong and irrelevant documents resulting in wrong entries made in the name of the petitioner's mother and her brother one Rajan. The entries made in the said patta shows as if S.F.No.72/C measured 0.35.0 hectares (i.e.,)

0.86 ½ acres were erroneous and they led to a situation for those persons to assert a right in the land measuring 0.25 acres. Therefore, the petitioner made an application dated 24.12.2012 to the Revenue Divisional Officer, Coimbatore, for rectifying the mistakes crept in the order granting subdivision. The Revenue Divisional Officer ordered for a survey and the Surveyor, Sulur, filed a report, based on which, the Revenue Divisional Officer, Coimbatore, by his proceedings dated 04.01.2013, ordered to rectify the mistake and to effect subdivision as per the registered partition dated dated 24.04.1958. Pursuant to the same, the petitioner made a representation to the respondent herein for effecting a fresh survey as per the directions of the Revenue Divisional Officer, Coimbatore. The petitioner also paid the necessary fees on 30.04.2013 through Bank and submitted the same to the Tahsildar's Office, Sulur. Along with the same, the petitioner gave a letter to the respondent herein praying suitable action. Thereafter, the respondent sent a notice dated 25.04.2013, which was served through Village Administrative Officer, stating that survey works were to be carried on in the lands concerned on 03.05.2013 and the notices appeared to have been sent to others by the office of Tahsildar. But, the survey works has not been conducted on that day. Thereafter, the respondent sent several notices fixing the date of survey on various dates, but, the same ends in vain. Hence, the petitioner made another representation dated 31.08.2015 before the Revenue Divisional Officer, Coimbatore, wherein, the Revenue Divisional Officer, Coimbatore, on 31.08.2015 made an endorsement, asking the respondent herein to go through the order and implement the same. Thereafter, the respondent sent several notices for fixing the date of survey on various dates. The respondent sent a communication dated 19.07.2016 to the petitioner stating that police protection was sought for carrying out survey work to be done on 20.07.2016. But, nothing has happened. Hence, the present writ petition has been filed.

5. Heard the learned counsel for the petitioner on the above factual submissions.

6. Mr.A.N.Thambidurai, learned Special Government Pleader, who took notice for the respondent submitted that the respondent may be directed to implement the direction of the Revenue Divisional Officer.

7. Having regard to the facts and circumstances of the case and also the endorsement of the Revenue Divisional Officer to implement the earlier order, the respondent herein is directed to conduct the survey on the property of the petitioner, after giving opportunity to all parties and to complete the same within a period of two months from the date of receipt of a copy of this order and pass appropriate orders on merits and in accordance with law for effective sub-division of the property.

8. With the above direction, the present writ petition is disposed of. No costs.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

To
The Tahsildar,
Sulur,
Coimbatore.

+1 cc to Govt.Pleader,sr.70542

+1 cc to Mr.C.R.Prasanan,advocate,sr.70690.

vsn(co)
krd 1/2

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