

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2017

Coram

THE HON'BLE MR. JUSTICE B. RAJENDRAN

Writ Petition No.5622 of 2017

V.Kalesha

... Petitioner

Vs.

1.The Tahsilidar,
Arakkonam Taluk,
Vellore District.

2.Lal Meeran

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the first respondent to consider and pass orders on the petitioner's applications dated 01.12.2016 and 06.02.2017 seeking to conduct survey and modification of revenue records pertaining to the petitioner's property bearing T.S.No.53 and 53/1, Block No.97, Ward B, Survey No.229/B/16A, Ajjibai Layout, Nehruji Nagar, Arakkonam Town.

For petitioner : Mr.G.Jeremiah

For respondents : Mr.R.S.Selvam,
Government Advocate

ORDER

This writ petition has been filed to issue a Writ of Mandamus directing the first respondent to consider and pass orders on the petitioner's applications dated 01.12.2016 and 06.02.2017 seeking to conduct survey and modification of revenue records pertaining to the petitioner's property bearing T.S.No.53 and 53/1, Block No.97, Ward B, Survey No.229/B/16A, Ajjibai Layout, Nehruji Nagar, Arakkonam Town.

2.The case of the petitioner is that the property comprised in T.S. No.53, 53/1, Block No.47, Ward B, Survey No.229/B/16A, Ajjibai Layout, Nehruji Nagar, Arakkonam Town, originally belonged to petitioner's father/late Versha Maohammed and his brothers namely Chinna basha and Ajji Sahib. His father died intestate leaving behind his wife, daughter and six sons and the petitioner. One of the petitioner's brother namely Shakul Hameed died intestate leaving his wife, son and daughter as his legal heirs, who are entitled to succeed his share in the property. All legal heirs of his father and his brothers are entitled to a share in the property which is un-divided as co-sharers. However, on the basis of the entry made in the revenue records,

attempts were made to interfere with the petitioner's peaceful possession and enjoyment of the said property. Accordingly, the petitioner's brother late Shakul Hameed filed a suit in O.S. No.184 of 2003 on the file of the learned District Munsif, Arakkonam for a permanent injunction restraining them from interfering with petitioner's possession and also restraining them from alienating the said property and the said suit was decreed on 27.03.2014. Against the judgment and decree, an appeal was filed in A.S. No.28 of 2014 before the learned Subordinate Judge, Arakkonam. By a judgment dated 06.09.2016, the appeal was dismissed as steps were not taken to bring on record the deceased appellants and the said O.S. No.184 of 2003 was confirmed. Till date, no Second Appeal has been filed and the said O.S. No.184 of 2003 has become final as no legal heirs have come forward to claim any right. After obtaining a copy of the judgment in A.S. No.28 of 2014, the petitioner submitted an Application before the first respondent on 01.12.2016 calling upon the first respondent to modify the entries in the Town Survey Register and the patta by deleting the names of the dead persons, who had no title or interest in the said property. Though the said application was received and acknowledged by the first respondent, no order has been passed till date and therefore, the petitioner is before this Court.

3. The learned counsel for the petitioner would submit that the petitioner would be satisfied, if his representation is directed to be considered and appropriate order is passed. He would further submit that the petitioner may be given an opportunity to produce the details regarding the dead persons so as to enable the first respondent to make necessary modification in patta on the basis of petitioner's application.

4. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents.

5. Considering the submissions made on either side and without going into the merits of the claim made by the petitioner, this Court directs the first respondent to consider the representations of the petitioner, dated 01.12.2016 and 06.02.2017 and pass appropriate orders, on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order.

6. It is made clear that before passing order, the first respondent is directed to give an opportunity to the petitioner to produce all relevant documents relating to the dead persons.

7. The Writ Petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS IV)

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Sub Assistant Registrar

vga

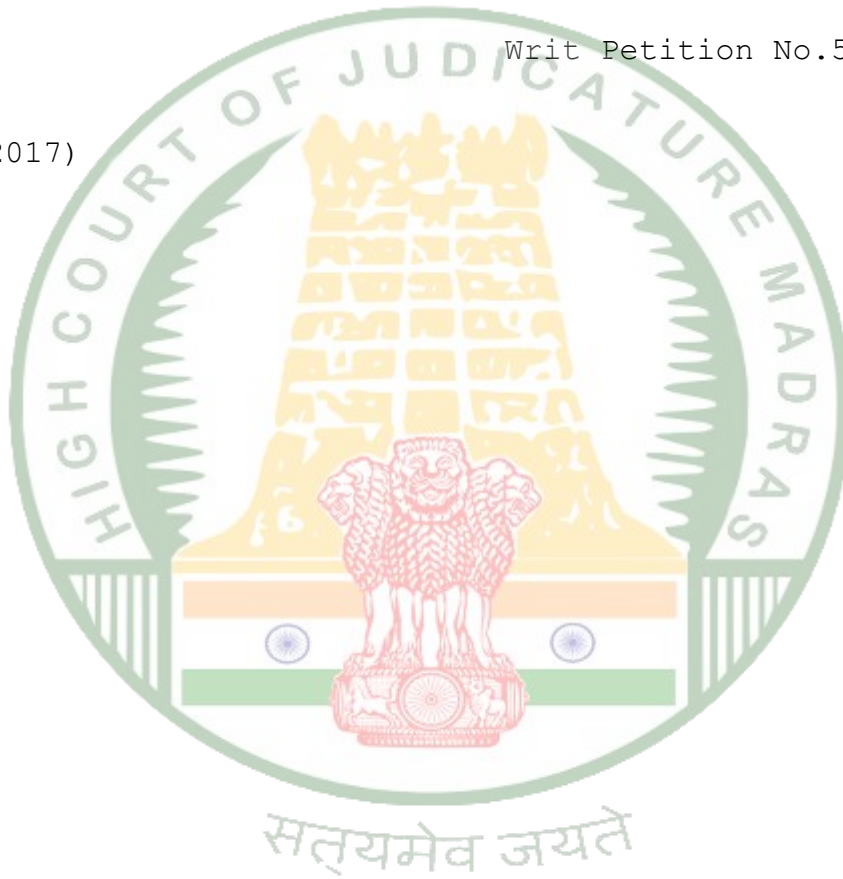
To

The Tahsilidar,
Arakkonam Taluk,
Vellore District.

+lcc to Mr.G.Jeremiah, Advocate, S.R.No.14742
+lcc to the Government Pleader, S.R.No.14875

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NR(CO)
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