



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD)No.11278 of 2016

and

W.M.P(MD)No.8630 of 2016

1.J.Selvaraj

2.J.Manuel Gnanaraj

3.J.John Chandraraj

... Petitioners

Vs.

1.The Tahsildar,
Kadayanallur Taluk Office,
Kadayanallur Taluk,
Tirunelveli District.

2.Rebeca

3.Maryranjitham

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the first respondent to measure the properties to an extent of 3.52 Acres in S.No.86/4 and an extent of 2.60 Acres in S.No.87/1 of Chokkampatti Village, the then Tenkasi Taluk, presently Kadayanallur Taluk, Tirunelveli District and to issue patta in favour of the petitioners for their property of 3/5 share in the above said property based on the petitioners' representation dated 01.02.2016 within a time to be stipulated by this Hon'ble Court.

For Petitioners

: Mr.A.Sivaji

For Respondents

: Mr.J.Gunaseelan Muthiah,

Government Advocate for R.1

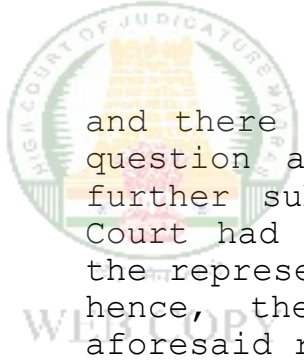
Mr.P.T.Thiraviam for R.2 & R.3

O R D E R

This writ petition has been filed by the petitioners seeking a writ of mandamus, directing the first respondent to measure the properties in question and to issue patta in their names for their 3/5th share in the said property.

<https://hcservices.ecourts.gov.in/hcservices/>

2. The learned Counsel for the petitioners would submit that the petitioners and the respondents 2 & 3 are brothers and sisters



and there is a dispute among them, with regard to the property in question and several suits are also pending in this regard. He further submitted that in the earlier rounds of litigation, this Court had directed the authorities to consider and pass orders on the representation of the petitioner, which they failed to do so and hence, the petitioners are before this Court, again, for the aforesaid relief.

3. Upon notice, the learned Government Advocate, filed a counter affidavit contending that the authorities are not in a position to pass orders on the representation of the petitioner, as there exists some dispute with regard to the title, in the form of suit, among the brothers and sisters, viz., the parties herein.

4. The learned Counsel appearing for the respondents 2 & 3 has also filed a counter, stating that when the dispute is pending before the competent Civil Court, the present petition ought not to have been filed and prays for dismissal.

5. Heard the learned Counsel on either sides.

6. A perusal of the typed set of papers would reveal that the representation of the petitioners had already been considered and negatived by the respondent authority in the year 2012, which was subsequently, challenged before this Court. Thereafter, the said order was quashed, in the earlier rounds of litigation and the authorities were directed to pass orders afresh, which according to the petitioners, is not yet done.

7. The stand taken by the respondent authority is that with regard to the title of the property, there exists some dispute among the family members and such being the case, the parties have to necessarily agitate their rights before the competent Civil Court and thereafter, necessary patta be issued to them, as prayed.

8. Be that as it may, if the order of this Court is not complied with by the authorities, the same has to be dealt with under the Contempt proceedings and not by filing yet another writ petition.

9. Under such circumstances, this writ petition is dismissed, leaving it open to the petitioners to agitate their rights before the competent civil Court or to file a contempt petition, if so advised. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar



To

The Tahsildar,
Kadayanallur Taluk Office,
Kadayanallur Taluk,
Tirunelveli District.

+1cc to Mr.P.T.THIRAVAM Advocate in SR. No. 89333

+1cc to Mr.A.SIVAJI Advocate in SR. No. 89344

GK

JS/GT/SAR.3/14.12.2017/3P-4C

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