

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2018

CORAM:

THE HONOURABLE MR. JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.A.No.1233 of 2018

1. T.P.Jayachandran
2. K.Girija Kalingarayar
3. P.Radha Kumari
4. T.P.Senthilnathan
5. P.Kamalam
6. T.O.Ugamoorthi
7. T.O.Shanmuganathan

SL No.2 to 7 are represented
through their P.A. And 1st petitioners

T.P.Jayachandran.

... Appellants

Vs

The Tahsildar,
Annur Taluk, Sakthi Road,
Annur-641 653,
Coimbatore District.

... Respondent

Prayer : Writ Appeal filed under Clause 15 of the Letter Patent
against the order dated 16.04.2018 made in W.P.No.9078 of 2018
by a learned Single Judge.

WP.NO.9078/2018:

Writ Petition filed under Article 226 of the Constitution
of India, praying issuance of a Writ of Mandamus directing the
respondent to make sub-division of the petitioners properties
situate in Survey Nos. 57, 122, 124 and 125/2 of Ottarpalayam
village of Annur Taluk, Coimbatore Dist. to a total extent of
6.27 1/2 acres vide Patta No. 1748 and 1843 within a time limit
fixed by this Court.

For Appellants :: Mr.V.Chandrasekaran
for M/s.R.Baskaradoss
For Respondents :: ...

JUDGMENT

(Judgment of the Court was pronounced by HULUVADI G.RAMESH, J.)

The Writ Appeal is directed against the Order dated 16.04.2018 made in W.P.No.9078/2018 by a learned Single Judge.

2. The Writ Petition has been filed seeking to issue a Writ of Mandamus, directing the respondent to make sub-division of the petitioners' properties situate in Survey Nos.57, 122, 124 and 125/2 of Ottarpalayam Village of Annur Taluk, Coimbatore District to a total extent of 6.27 ½ acres vide patta Nos.1748 and 1843 within the time stipulated by this Court. When the matter was posted for admission before the learned Single Judge, he dismissed the same by order dated 16.4.2018. Aggrieved over the same, the Writ Petitioners are before this Court with this Writ Appeal.

3. The matter is listed today under the caption, ''for admission''. Heard the learned Counsel appearing for the appellants. We have also gone through the typed set of papers filed along with the writ appeal including the order passed by the learned Single Judge.

4. On the face of the records, we are of the considered view that the Writ Appeal is not at all maintainable. In this regard, it is useful to extract paragraphs 2 and 3 in the order of the learned Single Judge here under:

''2.Learned counsel for the petitioners drawn the notice of this Court to the joint patta issued in the name of the petitioners. He would submit that as the petitioners intended to make settlement and partition among them, they require sub-division of the property and therefore they made representation to the respondent to make sub-division of the property in accordance with title, possession and enjoyment on 28.02.2018. Finding no response, they are before this Court.

3.But this Court is unable to appreciate the request of the petitioners. If at all the petitioners intend to sub divide their property, the joint pattadars namely the petitioners should have gone for partition of the same. Without there being any partition among the petitioners allotting shares to the individual pattadars, they cannot come to this Court. This Court is unable to entertain this petition and the same is dismissed. No costs.''

5. From the reading of the above, it is crystal clear that the appellants wanted to make division of the properties which are their joint and ancestral properties and in this regard, they have given a representation dated 28.02.2018 to the respondent. But, there is no response for the same is their grievance. Under such circumstances, this Court is unable to understand as to whether there are some documents to show the nature of the properties as ancestral properties or coparcenary or standing in the joint names. Further, it is also not known whether there exists any registered partition Deed or not. If it is an oral partition, as per the convention, there must be some memorandum entered into between the parties, recorded in the Revenue Records. Based on the same, an application has to be given to the revenue authorities with proper fees to divide the properties as per their entitlement. Without doing so and without even producing any authentic document to the Revenue Authorities with regard to the ownership, title and partition of the properties, the appellants cannot simply ask for divide the properties among themselves.

6. Therefore, it is for the appellants to do the needful in accordance with law on production of authentic documents showing their entitlement, possession and title along with the application. Then only the Revenue Authorities can do the needful enabling the parties to enjoy their respective shares and to take possession of the same as per law. In view of all the above, we do not find any infirmity or illegality in the order of the learned Single Judge.

7. In the result, the Writ Appeal fails and the same is accordingly dismissed. No costs.

Sd/-
Assistant Registrar(CS VI)

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Sub Assistant Registrar

tsi

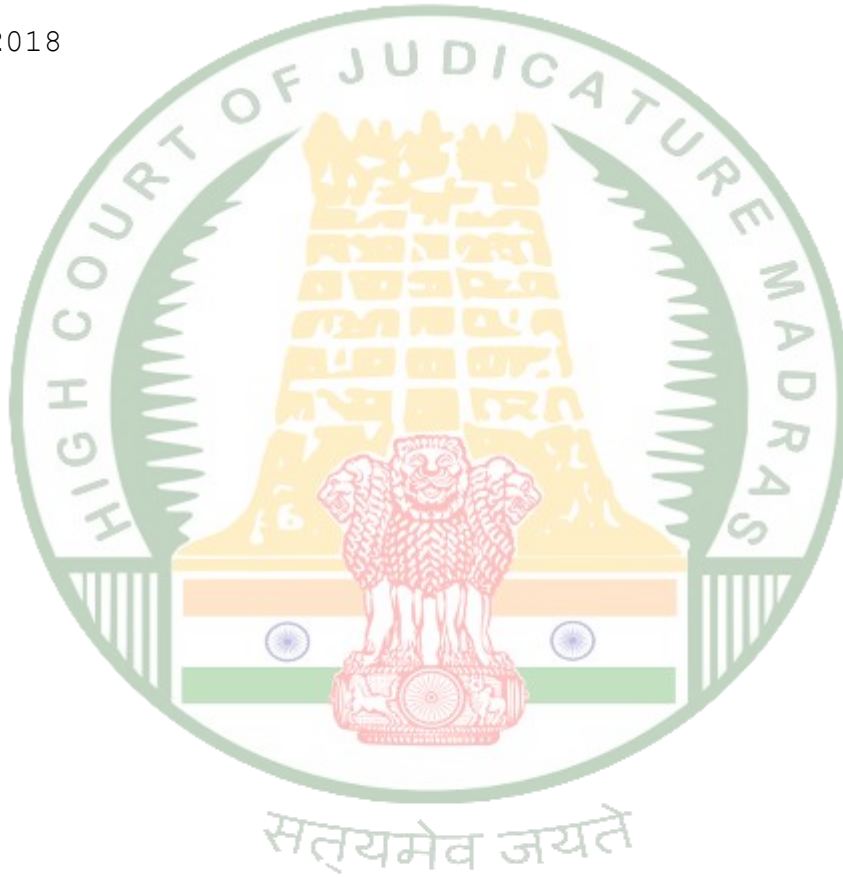
To

The Tahsildar,
Annur Taluk, Sakthi Road,
Annur-641 653,
Coimbatore District.

+1cc to M/s.R.Baskaradoss, Advocate sr.no.42087
+1cc to Government Pleader sr.no.42760

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