



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.12.2018

CORAM:

WEB COPY

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P (MD) No.4068 of 2018

K.Sakunthala

... Petitioner

Vs.

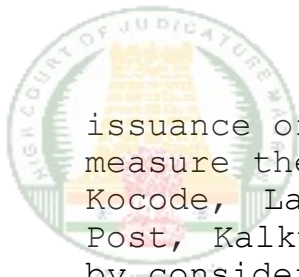
1. The Deputy Director,
District Land Survey Office,
Nagercoil,
Kanyakumari District.
2. The Revenue Divisional Officer,
Padmanabhapuram,
Kanyakumari District.
3. The Tahsildar,
Taluk Office,
Kalkulam Taluk,
Kanyakumari District.
4. The Taluk Deputy Surveyor,
Kalkulam Taluk,
Kanyakumari District.

5. V.Ganapathy
[R5 impleaded vide order dated 28.08.2018,
made in W.M.P.(MD)No.4777/2018]

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Mandamus, to direct the respondents 3 and 4 to measure the lands, an extent of 14 cents, situated in S.No.60/13 at Kocode, Lakshmipuram Revenue Village, Neyyoor Panchayat, Alancode Post, Kalkulam Taluk, Kanyakumari District, based on Patta No.2466, by considering the petitioner's representation dated 25.01.2018, within the stipulated period.

For Petitioner : Mr.K.Rajeshwaran
For R1 to R4 : Mr.B.Bhagawathy
Government Advocate
For R5 : Mr.C.Kishore



issuance of a Writ of Mandamus, to direct the respondents 3 and 4 to measure the lands, an extent of 14 cents, situated in S.No.60/13, at Kocode, Lakshmipuram Revenue Village, Neyyoor Panchayat, Alancode Post, Kalkulam Taluk, Kanyakumari District, based on Patta No.2466, by considering the petitioner's representation dated 25.01.2018.

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2.The learned counsel for the petitioner submits that the petitioner is owning 14 cents of land, which was inherited by her from her husband viz., Sundaram Pillai, who had executed a settlement deed dated 07.11.2008, in favour of the petitioner herein. The petitioner's husband's brother V.Ganapathy, who is the fifth respondent herein is causing hindrance and disturbance to the enjoyment of the property, when there was registered settlement deed in existence. As per the registered settlement deed, the petitioner is entitled for 14 cents of land and the fifth respondent is entitled to 5 cents of land, in which, the fifth respondent has already sold one set of land to third party.

3.It could be seen that the petitioner was issued with Patta and the third respondent without giving an opportunity, has transferred the said Patta into the name of the fifth respondent. Hence, the petitioner has filed an appeal before the Revenue Divisional Officer, Padmanabhapuram, the second respondent herein and the Revenue Divisional Officer after conducting enquiry, has allowed the petition of the petitioner herein. Aggrieved by the order of the Revenue Divisional Officer, the fifth respondent has filed an appeal before the District Revenue Officer, Kanyakumari, and the the District Revenue Officer has also dismissed the appeal filed by the fifth respondent on 03.07.2013 and directed the third respondent to sub-divide the property as per the documents available. The petitioner has approached the third respondent on many occasions, to measure and sub-divide the land and sent a representation dated 25.01.2018 to implement the order of the District Revenue Officer. But, till date, no action has been taken. Hence, the petitioner has approached this Court by way of filing the present Writ Petition.

4.A counter affidavit was filed by the fifth respondent alleging that his father has already executed a registered settlement deed, for 12 cents of land, vide Document No.1405/1987, dated 22.10.1987, on the file of the Sub-Registrar Office, Colachel, in favour of the fifth respondent and he is in absolute possession over the said land.

5.The fifth respondent's contention is that while he was in abroad, a partition deed was registered vide Document No.8832 of 1992, dated 26.11.1992 and he has not read the contents of the said deed and he has simply signed the same. He further submits that in all other documents, which were produced by his father, it has been stated in the schedule that there will be common pathway for the said lands. Without considering the recitals in the said documents, the petitioner herein has closed the said pathway and she is in



enjoyment of 14 cents of land.

6. All the issues raised cannot be canvassed here and the same can be canvassed before the appropriate forum and the 5th respondent has filed an appeal before the revenue authorities, which has ended in vain. The fifth respondent submits that the Court has to look into the matter and see that the pathway has been used for long time. The fifth respondent can canvass all these facts before the Competent Court and not before this Court.

7. The order dated 03.07.2013 passed by the District Revenue Officer, Kanyakumari District, has not been implemented by the authorities concerned so far. Hence, the respondents 3 and 4 are directed to measure the property of the petitioner, situated at S.No.60/13 at Kocode, Lakshmipuram Revenue Village, Neyyoor Panchayat, Alancode Post, Kalkulam Taluk, Kanyakumari District, within a period of eight weeks from the date of receipt of a copy of this order. If necessary, the respondents 3 and 4 can seek police protection. Accordingly, this Writ Petition is allowed. No costs.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar (CS-II)

To

1. The Deputy Director,
District Land Survey Office,
Nagercoil, Kanyakumari District.
 2. The Revenue Divisional Officer,
Padmanabhapuram,
Kanyakumari District.
 3. The Tahsildar,
Taluk Office,
Kalkulam Taluk,
Kanyakumari District.
 4. The Taluk Deputy Surveyor,
Kalkulam Taluk, Kanyakumari District.
- + 1 CC TO Mr.K.RAJESHWARAN, ADVOCATE IN SR No. 99166
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 99232
+ 1 CC TO Mr.C.KISHORE, ADVOCATE IN SR No. 99045

SMN2

TE/SV/SAR-2 : 19/12/2018 : 3P/8C

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W.P (MD) No.4068 of 2018
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