



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 23.11.2018
CORAM:

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

WEB COPY

W.P. (MD) .23247 of 2018

Krishnammal

... Petitioner

Vs.

1.The Revenue Divisional Officer,
Sivakasi, Virudhunagar District.

2.The Tahsildar,
Sivakasi Taluk Office,
Sivakasi, Virudhunagar District.

3.The Firka Surveyor,
Mangalam Firika,
Sivakasi Taluk,
Virudhunagar District.

... Respondents

PRAYER: This Writ Petition is filed under Article 226 of Constitution of India, praying for issuance of Writ of Mandamus, to direct the respondents to consider the representations dated 30.05.2018 and 23.10.2018 and to resurvey and demarcate the property of the petitioner situated in Virudhunagar District, Sivakasi Taluk, Mangalam Firika, Enjar Village in Survey No.1153/1 to extent of 46 1/2 cents as per the Tamil Nadu Survey and Boundaries Act, 1923 and consequently to make necessary mutations in the revenue records pertaining to the property of the petitioner in Virudhunagar District, Sivakasi Taluk, Mangalam Firika, Enjar Village Survey No.1153/1 within a time frame as may be fixed by this Court.

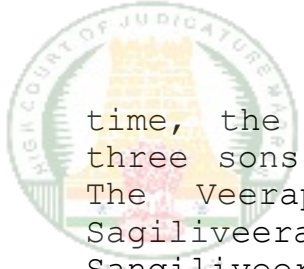
For Petitioner : Ms.P.Jessi Jeeva Priya

For Respondents: Mr.C.M.Marichellaiah Prabhu
Additional Government Pleader

O R D E R

This writ petition has been filed seeking issuance of writ of Mandamus to direct the respondents to consider the petitioner's representations dated 30.05.2018 and 23.10.2018 for resurveying and demarcating the property of the petitioner to an extent of 46 1/2 cents situated in Survey No.1153/1 in Enjar Village, Manmangalam Firika, Sivakasi Taluk, Virudhunagar District as per the Tamil Nadu Survey and Boundaries Act, 1923 and to make necessary mutations in the revenue records pertaining to the suit property within a time frame.

2.The case of the petitioner is that the above said property originally belongs to one Muthu Veerappa Thevar. After his life

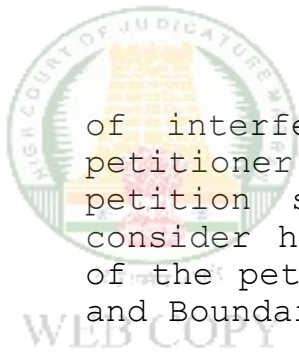


time, the property came to be in possession and enjoyment of his three sons viz., Veerappa Thevar, Kudandi Thevar and Muthu Thevar. The Veerappa Thevar had two sons viz., Subbiah Thevar and Sagiliveerappa Thevar. Kudandi Thevar had two sons namely, Sangiliveerappa Thevar and Muthuveerappa Thevar. Muthuveerappa Thevar had two sons namely, Chinna Subbiah and Periya Subbiah. Totally six sons and they had been in possession and enjoyment of the lands allotted to them. The total extent of 2 acres and 80 cents was in two parts. One part is 1 acres 90 cents and another part is 90 cents.

3.The property to an extent of 1 acres 90 cents was divided into 6 equal shares of 31 $\frac{1}{2}$ cents each and 90 cents was divided into 6 equal shares of 15 cents and in total 46 $\frac{1}{2}$ cents each. One among the six sons, namely, Muthu Veerappa Thevar, died leaving behind his five daughters, namely, Koodammal, Krishnammal, Chandra, Saraswathi and Packiam. The petitioner herein, being the second daughter and as a legal heir of the of the deceased Muthu Veerappa Thevar, submits that she was given the power of Attorney, dated 05.02.2001 and was granted permission to reside in the said property and she is still enjoying and residing there. Meanwhile, Survey No.1153/1 was subdivided into Survey Nos.1153/1A to 1 V.

4.Though the petitioner was in possession of 46 $\frac{1}{2}$ cents by way of oral partition between the petitioner's father and his brother, she was given a patta for a lesser extent of 39 cents i.e., in Suurvey No.1153/1C to an extent of 27 cents and in Survey No.1153/1V to and extent of 12 cents. The said sub division was effected without giving notice to the owners of the property and submits that it was done mistakenly. Therefore, she sent a representation, on 14.02.2000 to re-survey the land. The representation was rejected by the second respondent, directing the petitioner to approach the competent Civil Court. Accordingly, the petitioner filed O.S.No.55 of 2001 before the learned District Munsif, Virudhunagar, for permanent injunction restraining the defendants and others from interfering with the peaceful possession of the suit property. The suit was decreed in favour of the petitioner, on 21.12.2006. Against which, the respondents in the original suit, have filed A.S.No.27 of 2007 on the file of the learned Subordinate Judge, Virudhunagar, which had erroneously rejected the suit decree and allowed the appeal in favour of the defendants by judgment dated 29.08.2007. Aggrieved by the said rejection, the petitioner herein has filed S.A(MD)No.563 of 2008, before this Court and the same was allowed on 23.04.2018 in favour of the petitioner.

5. As per the said judgment passed by this Court, the petitioner is entitled to enjoy 46 $\frac{1}{2}$ cents. In the meanwhile, it could be seen that some of the neighbours are also trying to interfere with the peaceful possession and enjoyment of the property. hence, it becomes necessary for the petitioner to survey the land and fix boundaries. In order to bring out a solution to the said problem



of interference of the neighbours and other defendants in the petitioner's property, the petitioner has filed the present writ petition seeking for a direction to direct the respondents to consider her representation and resurvey and demarcate the property of the petitioner by fixing boundaries as per the Tamil Nadu Survey and Boundaries Act, 1923.

6. On going through the materials produced by the petitioner, it is seen that the power of attorney has been issued by the family members of the petitioner. Having succeeded in the second appeal, the petitioner approached the respondents on 30.05.2018 along with particulars by way of sending representation with acknowledgment card. But, till date there is no response from the authorities concerned.

7. From the above facts and circumstances of the case, this Court deems it fit to direct the respondents to measure the property as per the decree and judgment of this Court in S.A.(MD)No.563 of 2008 by considering the representations of the petitioner dated 30.05.2018 and 23.10.2018 after giving notice to the parties concerned and fix the boundaries, within a period of eight weeks from the date of receipt of a copy of this order.

8. This Writ Petition is allowed accordingly. No costs.

Sd/-
Assistant Registrar(co)

/True Copy/

Sub Assistant Registrar(cs-IV)

To

1. The Revenue Divisional Officer,
Sivakasi, Virudhunagar District.

2. The Tahsildar,
Sivakasi Taluk Office,
Sivakasi, Virudhunagar District.

3. The Firka Surveyor,
Mangalam Firika,
Sivakasi Taluk,
Virudhunagar District.

+1cc to Special Government Pleader, SR.No.96776

+1cc to Mr.P.Jessi Jeeva Priya Advocate in SR.No.

W.P.(MD) .No.23247 of 2018
23.11.2018