



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

WEB COPY

W.P. (MD) No.15999 of 2018
and
W.M.P. (MD) No.14263 of 2018

L.Chidhambaram

... Petitioner

Vs

1.The District Revenue Officer,
Sivagangai District,
Sivagangai.

2.The Assistant Director of Survey and Land Records,
Sivagangai Collectorate,
Sivagangai District.

3.The Thasildar,
Devakottai Taluk,
Sivagangai District.

4.The Special Tahsildar,
Town Land Settlement Office,
Devakottai Taluk,
Sivagangai District.

5.S.Vaitheeswaran

6.VR.Arunachalam

7.CT.Ramanathan @ Kannan

8.CT.Meenakshi Sundaram

9.Valliammai Achi

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order made in Na.Ka.A1/67/2018, dated 20.06.2018, on the file of the 4th respondent and quash the same and directing the 1st & 2nd respondents to measure the entire land in T.S.No.4/1, 4/2, 4/3 in Block No.15, Town Survey Ward A, Kannankottai Group, Devakottai Town, Sivagangai District separately and divide them into three equal share.

For Petitioner : Mr.V.Kannan

For Respondents : Mr.M.Karuppasamy
Government Advocate for R1 to R4

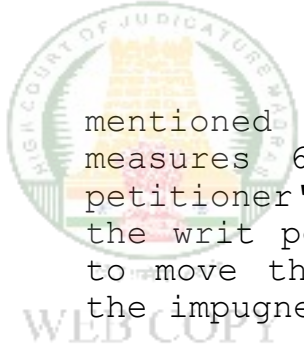
**ORDER**

Heard the learned counsel on either side.

2. The property comprised in T.S.No.4, Block No.15, Devakottai Town belonged to one Chidhambaram Chettiar. He had three sons namely., Veerappa Chettiar, Lakshmanan Chettiar and Ramanathan Chettiar. The writ petitioner was the adopted son of Lakshmanan Chettiar. A partition suit was instituted in O.S.No.97 of 1952 on the file of Sub Court, Devakottai. The proceedings concluded on 03.10.1962. It is clear from the records that the total extent of the entire property was 18.59 $\frac{1}{4}$ acres. After dividing by metes and bounds, the first branch namely., Veerappa Chettiar branch was allotted 6.54 acres, Lakshmanan Chettiar branch was allotted 6.432 acres while the third son namely., Ramanathan Chettiar was allotted 6.28 acres. But while submitting the report, the receiver had mentioned each plot allotted to the respective branch measures 6.52 $\frac{3}{4}$ acres.

3. The writ petitioner herein filed W.P.(MD)No.2337 of 2017, before this Court for measuring and fixing his boundaries in T.S.No.4/2. The writ petition was disposed of on 02.02.2016 by directing the authorities to measure and fix the petitioner's boundaries. When the said exercise was undertaken, it was noticed by the Special Thasildar, Town Land Settlement Office, Devakottai that only 6.37 acres was available on record and 6.52 $\frac{3}{4}$ acres as claimed by the writ petitioner. A memorandum dated 06.03.2017 was issued to this effect. The same was challenged by the petitioner by filing W.P.(MD)No.5657 of 2017 and the same was dismissed on 03.04.2017. Questioning the same, the petitioner herein filed W.A.(MD)No.705 of 2017. Even though the Honourable First Bench dismissed the writ appeal on 21.06.2017, the writ petitioner was given liberty to approach the Tahsildar, Devakottai by way of representation by enclosing all the necessary documents. The Thasildar was directed to complete the same after issuance of notice to the interested persons. While giving such liberty, the Honourable First Bench made it clear that they had not considered the correctness of the claim made by the writ appellant / petitioner herein and clarified that it was for the jurisdictional Thasildar to do the needful in accordance with law. Taking advantage of the aforesaid direction, the writ petitioner filed one more petition dated 14.07.2017 before the Thasildar, Devakottai Taluk. Since the property comes under the town survey, the fourth respondent took up the matter and by the impugned order dated 20.06.2018 stated that the request of the writ petitioner was not feasible of compliance. Challenging the same, this writ petition has been filed.

4. The learned counsel appearing for the writ petitioner reiterated the contentions set out in the affidavit filed in respect of the writ petition. He placed particular reliance on paragraph 3 of the receiver's report dated 10.01.1964, wherein it has been



mentioned that the plot allotted to the writ petitioner branch measures 6.523 $\frac{3}{4}$ acres. After concluding his submission, the petitioner's counsel stated that even if this Court were to dismiss the writ petition, he submitted that he would still have the right to move the District Revenue Officer, Tirunelveli as indicated in the impugned order.

5.I am unable to agree with the submission of the learned counsel appearing for the writ petitioner. As rightly pointed by the learned counsel appearing for the respondents 7 to 9, the reliance on the receiver's report dated 10.01.1964 is misplaced. The petitioner is obviously taking advantage of a typing mistake. It is not in dispute that the total extent of T.S.No.4 originally owned by Chidhambaram Chettiar measures only 18.58 $\frac{1}{4}$ acres. If as claimed by the writ petitioner each branch is to be allotted 6.523 $\frac{3}{4}$ acres, the total would come to 19.58 $\frac{1}{4}$ acres. Therefore, the petitioner's claim cannot be true.

6.Even though an extent of 6.43 acres was allotted in petitioner's favour in the final decree proceedings, certain difficulties arise. The learned counsel appearing for the contesting respondents drew the attention of this Court to the fact that the writ petitioner formed a lay out in the allotted land as early as in the year 1997. The application submitted to the planning authority mentioned that T.S.No.4/2 measured only 6.37 $\frac{1}{4}$ acres / 2.77651.44 Square Feet. The petitioner had also executed a settlement deed in favour of his daughter on 16.09.2013. They are registered settlement deeds. In the said document also the petitioner herein had mentioned the total extent of T.S.No.4/2 as 6.37 $\frac{1}{4}$ acres only.

7.It is further seen that all the three branches had plotted out the lands allotted to them which are now in the hands of the third parties. Hence, at this stage the petitioner's request for survey and measurement of the land allotted to him as per the final decree proceedings in O.S.No.97 of 1952 on the file of Sub Court, Devakottai cannot be accepted. It would only lead to unsettling of settled matters. It is better to give quietus to the issue. The petitioner has already engaged himself in two rounds of litigation in this regard. If any observation or liberty is given to the writ petitioner, he may take advantage of it for unleashing one more round of litigation. I am of the view that the issue is to be given quietus. The writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (W)

/ True Copy /



To

1.The District Revenue Officer,
Sivagangai District,
Sivagangai.

2.The Assistant Director of Survey and Land Records,
Sivagangai Collectorate,
Sivagangai District.

3.The Thasildar,
Devakottai Taluk,
Sivagangai District.

4.The Special Tahsildar,
Town Land Settlement Office,
Devakottai Taluk,
Sivagangai District.

+1 CC to M/s.S.PARTHASARATHY, Advocate
(SR-57490[F] dated 28/03/2019)

+1 CC to Mr.V.Kannan, Advocate
(SR-57608[F] dated 29/03/2019)

+1 CC to M/s.SPL GP (SR-57762[F] dated 29/03/2019)

W.P. (MD) No.15999 of 2018
28.03.2019

ES/25.04.2019/4P/8C