



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. (MD)No.10675 of 2020

and

W.M.P (MD)Nos.9394 & 9396 of 2020

WEB COPY

Karuppaiah @ Periyasamy

... Petitioner

Vs.

1.The District Collector,
Trichy District,
Trichy.

2.The Revenue Divisional Officer,
Srirengam Revenue Division,
Srirengam,
Trichy District.

3.The Tahsildar,
Marungapuri Taluk,
M.Kalluppatti,
Trichy District.

4.Sagunthala

... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order of the third respondent vide proceedings in Na.Ka.No.A2/783/2020 dated 18.08.2020 and quash the same as illegal and consequently direct the second respondent to dispose the patta appeal in Petition No.89 of 2018 dated 05.04.2018 within the time bound manner.

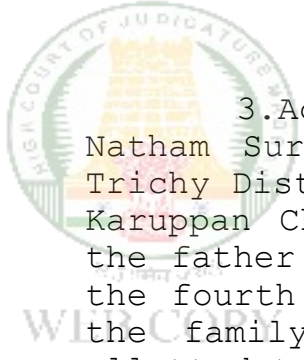
For Petitioner	: Mr.T.Vadivelan
For RR 1 to 3	: Mr.P.Kannidevan
	Additional Government Pleader

ORDER

The petitioner has filed the present Writ Petition to issue a Writ of Certiorarified Mandamus, to quash the impugned order passed by the third respondent vide proceedings in Na.Ka.No.A2/783/2020 dated 18.08.2020 and consequently, directing the second respondent to dispose of the patta appeal in Petition No.89 of 2018 dated 05.04.2018 within the time stipulated by this Court.

2.Mr.P.Kannidevan, learned Additional Government Pleader takes notice for the respondents 1 to 3.

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3. According to the petitioner, the property comprised in Natham Survey No.317/9, Uththukkuli Village, Marungapuri Village, Trichy District and some other properties originally belonged to one Karuppan Chettiyar and he had two sons, namely, Muthhaiah, who is the father of the petitioner and Balakrishnan, who is the father of the fourth respondent. On 25.12.1967, there was a partition between the family members and the subject matter of the property was allotted to the said Balakrishnan. Since the said Balakrishnan died Intestate, the petitioner's grandmother got 1/3rd share of the deceased Balakrishnan's property including the subject property. In this regard, the mother of the fourth respondent filed a suit in O.S.No.76 of 1982 on the file of the District Munsif, Manapparai and the same was dismissed. Aggrieved over the same, she preferred an appeal in A.S.No.126 of 1984 on the file of the Sub Court, Trichy, wherein the Appellate Court clearly emphasized that the grandmother of the petitioner is having 1/3 share of the deceased Balakrishnan. Hence, the petitioner acquired the right of 1/3rd share through the Will executed by his grandmother and acquired the remaining 2/3rd share of the said property from the mother of the fourth respondent and the fourth respondent and the petitioner is in possession and enjoyment of the said property. Seeking patta, the petitioner preferred an appeal before the second respondent in Petition No.89 of 2018, dated 05.04.2018 and the same is pending till date. In the mean time, the third respondent passed the impugned order vide proceedings dated 18.08.2020 stating that the fourth respondent has obtained an order to survey the said property through W.P(MD)No.6790 of 2020, dated 10.04.2020. The petitioner had given written objection to the third respondent on 21.08.2020. But without considering the same, the third respondent is trying to survey the petitioner's house property. Challenging the said impugned order, the petitioner has filed the present Writ Petition.

4. The learned Additional Government Pleader appearing for the respondents 1 to 3 submitted that the subject matter of the property was measured by the concerned authority on 28.08.2020 at 11.00 a.m., and submitted that nothing survives for adjudication in the present Writ Petition and the copy of the said instruction issued by the Revenue Inspector is also placed before this Court and the same is taken on file and the same shall form part of this order.

5. At this juncture, the learned counsel appearing for the petitioner submitted that consequential prayer to dispose of the patta appeal in Petition No.89 of 2018, dated 05.04.2018 may be considered at an earliest within the time stipulated by this Court.

6. The learned Additional Government Pleader appearing for the respondents 1 to 3 submitted that the petitioner's patta Appeal in Petition No.89 of 2018 dated 05.04.2018 would be considered on merits and in accordance with law, within a time frame to be fixed by this Court.



7. In view of the submission made by the learned counsel appearing on either side, this Court, without expressing any opinion on the merits of the case, directs the second respondent to consider the patta appeal in Petition No.89 of 2018 dated 05.04.2018 and pass appropriate orders on merits and in accordance with law, after affording due opportunity of hearing to the petitioner and other interested parties, if any, within a period of twelve weeks from the date of receipt of a copy of this order.

8. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (crl.side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Note:- In view of the present lock down owing to COVID - 19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

Ps

To

1. The District Collector,
Trichy District,
Trichy.

2. The Revenue Divisional Officer,
Srirengam Revenue Division,
Srirengam,
Trichy District.

3. The Tahsildar,
Marungapuri Taluk,
M.Kalluppatti,
Trichy District.

+1 CC to M/s. Special Government Pleader (SR-15829[F] dated 03/09/2020)

W.P. (MD) No.10675 of 2020
02.09.2020

KB(10.09.2020) 3P 5C

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