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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2021

CORAM:

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P. NO.18188 OF 2021

L. Suganya

... Petitioner

-Vs-

1. The Assistant Settlement Officer (North),
Ezhilagam, Chepauk,
Chennai - 600 005.
2. The Special Tahsildar,
Town Survey and Settlement Revenue,
Alandur, Chengalput District,
Chennai.
3. L.Ukesh,
4. P.Deekaraman

... Respondents

PRAYER: This Petition is filed under Article 226 of the Constitution of India, praying for the issue a Writ of Mandamus, directing the 1st respondent to pass orders on appeal filed by the 3rd respondent dated 10.03.2017 preferred against the order made in Na.Ka. 1181/2016 dated 02.12.2016 passed by the 2nd respondent within the stipulated time as fixed by this Court and pass orders accordingly.

For Petitioner :: Mr.V.Manisekaran

For Respondents-1&2 :: Mr.Yogesh Kannadasan
(Government Advocate)

For Respondents-3&4 :: No Appearance

O R D E R

The relief sought for in this writ petition is for a direction to the 1st respondent to pass orders on appeal filed by the 3rd respondent dated 10.03.2017 preferred against the order made in Na.Ka. 1181/2016 dated 02.12.2016 passed by the 2nd respondent within the stipulated time as fixed by this Court and pass orders accordingly.



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2.The learned counsel for the petitioner would submit that an extent of 1.16 cents in T.S. No.184/3G, 184/3H, 184/3I and 184/4 (Paimash Nos.557 and 558) Ward No.E, Block No.9, and 174, 176, 198, 199, 200, 210, 211 and 81/2, (Paimash Nos.557, 558 and 586) Ward No.E, Block No.13, situated in Adambakkam Village, Alandur Taluk, Kancheepuram was owned by Ponnuranga Naicker who is the petitioner's husband grandfather and he having purchased the same by registered sale deed bearing document No.2182 of 1948 dated 29.10.1948 from one Dharmalingam. The said Ponnuranga Naicker died on 26.11.1976 leaving behind wife and two sons namely Meenambal, Sankaran and 4th respondent namely, P.Deekaraman as his legal heirs. The said Meenambal died on 15.11.1994 and Sankaran predeceased his father and mother on 15.01.1965. The said Sankaran leaving behind the wife and children namely Susila, son-Lakshmipathi, daughters- Poongothai and Shanthi as his legal heirs. The said Susila died on 20.09.2005 and Lakshmipathi died on 13.06.2001. The said deceased Lakshmipathi who is the father of the petitioner leaving behind the wife namely L. Lakshmi and his two sons namely the petitioner herein and 3rd respondent herein as his legal heirs and further said Shanti died on 03.05.2016 leaving behind her husband namely Rajendran, her son namely Prabhakaran, his daughters namely Padmavathi and Karpagam as her legal heirs. While the fact remain so, after death of said Ponnuranga Naicker and Meenambal, the said Sankaran and 4th respondent herein were entitled to get the equal share in the above said property, however the aforesaid property was not divided equally so far, as per Hindu Succession Act.

3. It has been further submitted that the Revenue records pertaining to the above said Survey Numbers stand in the name of said Ponnuranga Naicker, till the 4 respondent herein transferred the entire property in his name. After death of the grandfather of the petitioner namely Ponnuranga Naicker, the family members of the petitioner are enjoying the property along with his other legal heirs including 4th respondent herein without any encumbrance and hindrance of others. In the meanwhile, the 4th respondent mutated the revenue records with help of the Revenue Officials claiming to be owner of the aforesaid property as if he is the only legal heirs of the deceased Ponnuranga Naicker. After obtaining Patta in his name, the 4th respondent settled the aforesaid property in favour of his sons namely D.Suresh and D.Subash by registered settlement deeds on various dates after having received a certificate from the 2nd respondent as the aforesaid Survey Nos. were recorded in his name. Thus, the 4th respondent has occupied the entire property without giving the share in the ancestral property to other co-owners. The Revenue Officials and 4th respondent are colluded with each other have mutated the revenue records illegally without the consent and knowledge of the family members of the petitioner. In the interregnum, while the 4th



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respondent's son namely D.Suresh has executed a General Power of Attorney deeds in favour of the 3rd parties on various dates. Thereafter, the brother of the petitioner/3rd respondent herein submitted a representation to the 2nd respondent seeking for to cancel the patta which was already issued in the name of the 4th respondent herein and issue a combined Patta to all the legal heirs including the 4th respondent towards the entire property. After conducting the enquiry, the 2nd respondent has passed the order in Na. Ka.1181/2016 dated 02.12.2016 wherein the 2nd respondent had divided the entire property into two equal share and allotted one share to the 4th respondent herein and another share to legal heirs of deceased Sankaran is absolutely illegal and beyond his jurisdiction. Though the petitioner requested the 2nd respondent who is the competent authority at the point of time to issue a Joint Patta, however, the 2nd respondent passed an order to issue patta in respect of T.S. Nos. 174, 176, 198, 199, 200, 210, 211 and 81/2, and 184/3G in the name of the legal heirs of the Sankaran and confirmed the Patta granted in the name of the 4th respondent in respect of T.S. Nos.184/3H, 184/3I and 184/4 which is highly impermissible in the eye of law. Being aggrieved the aforesaid order, the 3rd respondent herein had filed an appeal before the 1st respondent against the order passed by 2nd respondent on 10.03.2017. Since the appeal filed by 3rd respondent is pending before the 1st respondent, he filed a W.P. No.24349 of 2017 before this Court seeking for Writ of Mandamus directing the 2nd respondent therein to dispose of the appeal filed by him. Pursuant to the above, this Court directed the 1st respondent to pass order within eight weeks on his appeal. Thereafter, an enquiry was conducted on 27.04.2018 and reserved the case for passing appropriate orders. However, till date no orders have been passed in the appeal and further pending appeal, the other co-owners sold a portion of land to the 3rd party which causing irreparable loss and hardship to the petitioner and her family members. Further, the petitioner being one of the share holder in the said property who is the sister of the 3rd respondent could not able to obtain her share due to pending of appeal filed by the 3rd respondent. Hence, the petitioner is left with no other alternative and efficacious remedy except to approach this Court by invoking its jurisdiction under Article 226 of Constitution of India. Hence, this Petition.

4.The learned Government Advocate would submit that the petitioner is the sister of the 3rd respondent who has already filed W.P. No.24349 of 2017 seeking for a direction to dispose of the appeal filed by him. This Court directed by its order dated 11.09.2017 to the 2nd respondent therein to dispose of the appeal within a period of eight weeks from the date of receipt of copy of that order. Even though enquiry was conducted on 27.04.2018, further orders are yet to be passed by the 1st respondent in accordance with law on the appeal filed by the 3rd



respondent herein. Hence, the 1st respondent may be directed to pass an appropriate order on the appeal filed by the 3rd respondent herein within a time frame as fixed by this Court in accordance with law.

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5. Heard, the learned counsel for the petitioner and the learned Government Advocate for the respondents 1 and 2 as well as perused the material available on records.

6. On a perusal of the typed set of papers, it is seen that after passing orders dated 11.09.2017, in W.P. No.24349 of 2019 by this Court, an enquiry was conducted on 27.04.2018 and the case was reserved for passing an appropriate orders in that regard by the authority concerned. Even the enquiry has been completed over this issue, the suitable orders are yet to be passed on the appeal filed by the 3rd respondent dated 10.03.2017 preferred against the order made in Na.Ka. 1181/2016 dated 02.12.2016 passed by the 2nd respondent. Hence, this Court, without expressing any opinion with regard to the merits of the case, directs the 1st respondent to pass appropriate orders on the appeal filed by the 3rd respondent herein in accordance with law within a period of eight weeks from the date of receipt of copy of this order.

7. With the aforesaid directions, this Writ petition is disposed of. Consequently, connected miscellaneous petition is closed if any. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS-VII)

// True Copy //

Sub Assistant Registrar

Lbm

To:

1. The Assistant Settlement Officer (North),
Ezhilagam, Chepauk, Chennai - 600 005.
2. The Special Tahsildar,
Town Survey and Settlement Revenue,
Alandur, Chengalput District, Chennai.

+1cc to Mr.V.Manisekaran, Advocate, S.R.No.43767
+1cc to the Government Pleader, S.R.No.44600

W.P. No.18188 of 2021

GPL(CO)
RLP(01/11/2021)