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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2021

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.NO.19898 OF 2021

Periyasamy

... Petitioner

.Vs.

1. The Revenue Divisional Officer,  
Tirukoilur Taluk,  
Tirukoilur,  
Kallakurichi District.

2. The Tahsildar,  
Tirukoilur Taluk,  
Tirukoilur,  
Kallakurichi District.

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, to direct the first respondent to consider and dispose of the petitioner's appeal dated 16.03.2021 within a stipulated period fixed by this Court.

For Petitioner : Mr.C.Samivel

For Respondents : Mr.Yogesh Kannadasan  
Government Advocate

ORDER

This writ petition has been filed for a mandamus to direct the first respondent to consider and dispose of the petitioner's appeal dated 16.03.2021 within a time frame.

2. The case of the petitioner is that the properties in S.Nos.333/10C, 10F, 10J, 9C, 332/14A, 359/4A, 359/5A, 362/2A, 2E, 7C, 7F, 8A, 365/12C, 365/13E, 377/12 and 364/6 are originally belonged to his grandfather one Mr.Chinnaiya Gounder,



the said Chinnaiya Gounder having four sons viz., Subbaraya Gounder (his father), Varadharaja Gounder, Arumuga Gounder and Gopal Gounder.

3. According to the petitioner, during the life time of his grandfather, the said properties were orally partitioned 70 years ago between the four sons.

4. The petitioner submits that based on the oral partitions, the following properties were allotted to his father Mr. Subbaraya Gounder:

| Survey Nos. | Extent     |
|-------------|------------|
| 1. 333/10C  | 6.50 Ares  |
| 2. 333/10F  | 11.00 Ares |
| 3. 333/10J  | 5.00 Ares  |
| 4. 333/9C   | 4.00 Ares  |
| 5. 332/14A  | 0.50 Ares  |
| 6. 359/4A   | 2.00 Ares  |
| 7. 359/5A   | 2.50 Ares  |
| 8. 362/2A   | 4.50 Ares  |
| 9. 362/2E   | 2.50 Ares  |
| 10. 365/12C | 1.50 Ares  |
| 11. 365/13E | 5.00 Ares  |
| 12. 377/12  | 16.00 Ares |
| 13. 362/7C  | 4.00 Ares  |
| 14. 362/7F  | 5.50 Ares  |
| 15. 362/8A  | 8.50 Ares  |
| 16. 364/6   | 2.50 Ares  |
| Total       | 87.50 Ares |

5. The petitioner further submits that his father Subbaraya Gounder having two sons viz., Kannan and himself and on 10.04.1979 his father was expired leaving behind his legal heirs himself and his brother Kannan.

6. According to the petitioner, after his father's demise, he is in possession, enjoyment and cultivating the said lands along with his brother as co-owners and all the revenue records such as 'A' Register, Chitta and Patta etc of the said properties stands in the name of his brother Mr. Kannan, who is the elder of the family.

7. The petitioner submits that they are only the legal heirs of Subbaraya Gounder are jointly enjoying and cultivating the said properties, but there was no partition effected between him and his brother Kannan till date.



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8. The petitioner further submits that his brother Kannan expired in the year 1992, even after the demise of his brother Kannan, he was cultivating the said lands along with his legal heirs as jointly without any encumbrance and disturbance and without adding his name in the revenue records in respect of the said properties till date.

9. According to the petitioner, on 29.08.2000, 25.08.2006 and 18.09.2008 some of the properties were sold by them to the third parties as jointly, eventhough his brother's name alone stands in the chitta and patta in Patta Nos.144 and 176 with regard to the subject matter of the said properties, his name is not added in the revenue records of the chitta and patta in respect of the said properties.

10. The petitioner submits that on 15.04.2017, he gave a representation to the Village Administrative Officer and requested him to add his name in the revenue records of chitta and patta in respect of the properties, the Village Administrative Officer has not taken any steps to add his name in the revenue records of his properties.

11. The petitioner further submits that thereafter on 25.09.2017, he made a representation to the second respondent herein requested him to add his name in the revenue records in respect of the above properties which was also kept pending without any progress.

12. According to the petitioner, he gave a representation on 07.06.2018 to the first respondent and requesting him to direct the second respondent and the Village Administrative Officer to conduct enquiry with regard to his representation and to add his name in the revenue records of chitta and patta.

13. The petitioner submits that as per oral instructions given by the first respondent on 15.09.2019 again he gave a representation to the second respondent to add his name in the revenue records of chitta and patta in respect of the above said properties, but the second respondent neither dispose of his representation nor added his name in the revenue records.

14. According to the petitioner, he filed a writ petition before this this Court in W.P.No.13898 of 2020 seeking for a direction to direct the second respondent herein to add his name in the Revenue Records of patta and chitta as joint owner in respect of the subject matter of the properties at Vengur Madura Revenue Village, Kallakurichi District.

15. The petitioner submits that on 07.10.2020, the said writ petition was disposed with a direction to the respondent



herein to complete the enquiry and pass final orders strictly in accordance with law, within a period of 6 weeks, from the date of receipt of copy of this order and after receipt of the said order, the second respondent has failed to comply with and hence, he sent a contempt notice calling upon him to comply the order of this Court.

16. The petitioner further submits that after the receipt of the said notice, the second respondent herein on 17.12.2020 passed an order stating that the suit in O.S.No.153 of 2016 is pending before Principal District Munsif Court, Tirukoilur regarding the title of the property and he has been directed to approach the civil court to get the proper remedy.

17. The petitioner further submits that the second respondent has admitted the facts of the case that Mr.Kannan and himself were the two legal heirs of his father one Subbaraya Gounder and it is their ancestral property and also admitted that he is in possession and enjoyment of the subject property in S.Nos.333/9C, 10F and 332/14A.

18. According to the petitioner, once the respondent had admitted the entire facts of the case, the second respondent ought to have granted the relief sought by him and there is no dispute between the legal heirs and himself and they have also given consent to add his name as a co-owner, but the second respondent without any enquiry had passed the order stating that the legal heirs are also objecting.

19. The petitioner submits that the suit in O.S. No.153 of 2016 was pending before the learned Principal District Judge, Tirukoilur and he has been directed to approach the civil court.

20. The petitioner further submits that the civil suit was filed by one Elumalai and others who are none other than his cousin against other cousin for declaration and permanent injunction of the suit properties which does not includes the relief sought in the survey numbers and the suit property is entirely different from subject matter of this case.

21. According to the petitioner, the suit has also been withdrawn by the plaintiff on 23.12.2020 and as stated by the second respondent, there is no suit is sustained against the relief sought in survey number till date, the order was passed without any application of mind.

22. The petitioner submits that aggrieved by the act of the second respondent, he filed another writ petition in W.P.No.3123 of 2021 challenging the order passed by the second respondent dated 17.12.2020 and seeking further direction to



direct the second respondent to add his name in the revenue records of chitta and patta as joint owner in respect of the properties, the said writ petition has been disposed on 16.02.2021.

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23. The petitioner further submits that after receipt of the above said order, he filed his appeal on 16.03.2021 before the first respondent herein and requested him to consider his appeal and to include his name in the revenue records as joint owner in the patta and chitta in respect of the subject matter of properties, the first respondent did not sent any summon to him for appearance in the respective place with relevant documents in respect of subject matter and also enquiry not conducted in respect of his appeal.

24. According to the petitioner, thereafter he had directly approached the first respondent and asked him about his appeal, the first respondent has no taken action to conduct the enquiry in respect of petitioner's appeal.

25. The petitioner has no other alternative remedy except to approach this Court under Article 226 of the Constitution of India. Hence, the writ petition filed.

26. Heard, learned counsel for the petitioner and the learned Government Advocate for the respondents and perused the materials available on record.

27. In view of the above and considering the submission made by the petitioner, this Court is of the view that the respondents shall consider the petitioner's appeal dated 16.03.2021 and pass appropriate orders in accordance with law, after affording opportunity to all the parties concerned, within a period of four months from the date of receipt of receipt of a copy of this order.

28. With the above directions, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Revenue Divisional Officer,  
Tirukoilur Taluk,  
Tirukoilur,  
Kallakurichi District.

2. The Tahsildar,  
Tirukoilur Taluk,  
Tirukoilur,  
Kallakurichi District.

+1cc to the Government Pleader, S.R.No.48593

W.P.NO.19898 OF 2021

AD(CO)  
PBS/09/11/2021