



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.04.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) .No.7652 of 2021

Sadayan

...Petitioner

Vs.

1. The Tahsildar,
Manapparai Taluk, Trichy District.

2. The Head Surveyor,
Manapparai Taluk, Trichy District.

3. The Firka Surveyor,
Pannapatti, Manapparai Taluk,
Trichy District.

... Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to make subdivision of S.F.No.446/4 of Chettiyapatti Village, Manapparai Taluk, Trichy District, as per judgment dated 22.06.2017 in I.A.No.1361 of 2011 in O.S.No.182 of 2011, on the file of the District Munsif Court, Manapparai and grant separate patta in the name of the petitioner by processing the petitioner's online application dated 22.11.2018.

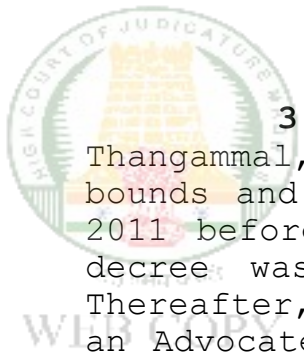
For Petitioner
For Respondents

: Mr.AN.Ramanathan
: Mrs.M.Rajeswari
Government Advocate

ORDER

This Writ Petition has been filed for the issue of a Writ of Mandamus, directing the respondents to act upon the application submitted by the petitioner on 22.11.2018, wherein, the petitioner has sought for the subdivision of the subject property and for issuance of a separate patta in his name.

2. The case of the petitioner is that the subject property situated at Survey No.446/4 was jointly purchased by the petitioner and his brother's wife, namely, Thangammal, by registered sale deeds dated 26.10.1977 and 19.06.1981. The joint patta was also issued in both their names.



3. The further case of the petitioner is that the said Thangammal, was not willing to divide the property through metes and bounds and therefore, the petitioner filed a suit in O.S.No.182 of 2011 before the District Munsif Court, Manapparai. A preliminary decree was passed by declaring half share of the petitioner. Thereafter, the petitioner filed an application for final decree and an Advocate Commissioner was appointed and he divided the property by metes and bounds and a report was also submitted before the Court.

4. The petitioner thereafter filed a petition in E.P.No.63 of 2017 seeking for delivery of possession of the share allotted in his favour. A direction was issued by the Execution Court to the Bailiff and the Bailiff acted upon the warrant and effected delivery and handed over the possession of the share that belonged to the petitioner on 25.01.2018.

5. The petitioner thereafter made a representation to the respondents seeking for subdivision and for issuance of separate patta in favour of the petitioner insofar as the subdivided property is concerned. Since the same was not acted upon, the present Writ Petition has been filed before this Court seeking for appropriate directions.

6. Heard Mr.AN.Ramanathan, learned counsel appearing for the petitioner and Mrs.M.Rajeswari, learned Government Advocate appearing on behalf of the respondents.

7. It is clear from the records that the competent Civil Court has already identified the share to which the petitioner was entitled to and delivery has also been effected by the Bailiff in the execution proceedings. The petitioner, therefore, wants subdivision of the survey Number with regard to the share allotted to the petitioner and separate patta insofar as that share is concerned.

8. In view of the above, there shall be a direction to the first respondent to act upon the application submitted by the petitioner on 22.11.2018 and carry out the necessary subdivision and pass appropriate orders by issuing separate patta in his favour, within a period of eight (8) weeks from the date of receipt of a copy of this order. If there are any other interested parties claiming right over the subject property, they shall also be issued with notice and an opportunity shall also be given to them.

9. The petitioner is directed to make a fresh representation along with all the relevant documents and also a copy of this order.



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10. The Writ Petition stands disposed of accordingly. No costs.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

1. The Tahsildar,
Manapparai Taluk, Trichy District.
2. The Head Surveyor,
Manapparai Taluk, Trichy District.
3. The Firka Surveyor,
Pannapatti, Manapparai Taluk,
Trichy District.

+1 CC to M/s.AN.RAMANATHAN, Advocate (SR-15532[F] dated 08/04/2021)

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.

Order made in

W.P. (MD) .No.7652 of 2021

Dated:

08.04.2021

CN(03/05/2021) 3P C5