



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2022

CORAM:

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. No.5169 of 2022

P. Selvaraj

.... Petitioner

Versus

1. The Tahsildar,
Dharapuram Taluk,
Tiruppur District.

2. The Taluk Head Surveyor,
Dharapuram Taluk,
Tiruppur District.

3. The Firka Surveyor,
Dharapuram Taluk,
Tiruppur District.

...

Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Mandamus directing the respondents to issue sub-division patta transfer order to the petitioner as per his application dated 28.06.2019 and on-line application dated 10.12.2021.

For Petitioner : Mr.B.Kumarasamy

For Respondents : Mr.Yogesh Kannadasan, Spl. GP

ORDER

This writ petition has been filed for issuance of a direction to the respondents to issue sub-division patta transfer order to the petitioner as per his application dated 28.06.2019 and on-line application dated 10.12.2021.

2. The learned Special Government Pleader takes notice for the respondents. In view of the limited relief sought for in this petition and on the consent of the learned counsel appearing



on either side, this petition is taken up for final disposal.

3. The case of the petitioner is that his mother acted as a guardian when a property was purchased in his name as well his brother's name when both were minors. The said property was having an extent of 12.39 punjai acres in S.F. No.140/2. Thereafter, on 24.05.1995 the petitioner and his brother partitioned the property and registered the same as Document No.1486 of 1995 on the file of the SRO, Dharapuram. Due to such partition, A-schedule property was partitioned towards the share of his brother P. Myilasamy and B-schedule property was partitioned to the petitioner. Subsequently, on 28.06.2019 his brother executed a settlement deed and released the share of A-schedule property to the petitioner. Hence, he submitted an application to the 2nd and 3rd respondents for issuance of sub division patta on 10.12.2021. However, till date, no orders have been passed. Therefore, the petitioner has come up before this court with the aforesaid prayer.

4. The learned counsel appearing for the petitioner submitted that it would suffice if this Court issues direction to the 2nd and 3rd respondents to consider petitioner's representation, dated 10.12.2021 and pass appropriate orders within a reasonable time that may be fixed by this Court.

5. Per contra, learned Special Government Pleader appearing for respondents submits that for the very same property, there was a dispute between the petitioner and the encroacher, which resulted in filing a suit before the Sub Court, Dharapuram in O.S. No.227 of 2022 and on that ground sub-division transfer patta application was rejected by the respondents. However, he submits that the said application will be considered after disposal of the suit. Hence, he prays for dismissal of this writ petition.

6. Heard the learned counsel on either side and perused the materials available on record.

7. It is clear from the submissions of the learned Special Government Pleader for respondents, which is not disputed by the petitioner, that there is a dispute between the petitioner and the encroacher owing to which civil suit in O.S. No. 227 of 2022 is pending on the file of Sub Court, Dharapuram. Pending suit, this Court is not inclined to issue any positive direction to the official respondents, by exercising its extra-ordinary jurisdiction under Article 226 of the Constitution of India. However, this Court directs the



respondents 2 and 3 to consider issuance of sub -division transfer patta subject to the result of the suit. The petitioner is also granted liberty to work out his remedy in the manner known to law subject to the outcome of the suit. This writ petition is dismissed with the aforesaid observations and directions. No costs.

Sd/-

Assistant Registrar(CS-IX)

// True Copy //

Sub Assistant Registrar

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To

1. The Tahsildar,
Dharapuram Taluk,
Tiruppur District.

2. The Taluk Head Surveyor,
Dharapuram Taluk,
Tiruppur District.

3. The Firka Surveyor,
Dharapuram Taluk,
Tiruppur District.

+lcc to Mr.B.Kumarasamy, Advocate SR.No.19391

+lcc to the Government Pleader, SR.No.19916

W.P. No.5169 of 2022

BP(CO)

CB(20/04/2022)