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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.05.2022

CORAM :

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P. No. 12161 of 2022

M.Kaliyappan @ Ganesan

.. Petitioner

Versus

1. The Commissioner / Director,
Commissionerate of Survey and Settlement,
No.1, Survey House, Kamarajar Salai,
Chepauk, Chennai - 600 005.
2. The Assistant Director of Survey,
District Collectorate,
Dharmapuri - 636 705.
3. The Divisional Inspector,
Operating Division,
District Collectorate,
Dharmapuri - 636 705.
4. M.Gunasekaran
5. D.Muniraj

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents 1 to 3 to conduct enquiry on petitioner's complaint / representation dated 03.05.2021.

For Petitioner : Mr. C. Senapathi

For Respondents : Mr. V. Manoharan
Additional Government Pleader

O R D E R

This writ petition has been filed by the petitioner for issuance of a Writ of Mandamus directing the respondents 1 to 3 to conduct enquiry on his representation dated 03.05.2021 and to pass orders thereof within a reasonable time.

2. It is stated by the petitioner that his father Muniappa Gounder was the absolute owner of various properties situated at Kalapahanalli, Karimangalam Taluk, Dharmapuri District. It is further stated that his father died intestate



and on his death, the petitioner and his brother one Chinnaraj @ Muniappan entered into an oral partition and mutually divided the properties of his father. In such partition, the petitioner was allocated various properties including the lands in Survey Nos.11/2, 19 and 18/2B. After such partition, the petitioner and his brother were in peaceful possession and enjoyment of the respective shares allotted to them. While so, the petitioner's brother Chinnaraj @ Muniappan died on 30.06.2006, leaving behind his son Mathu and daughters Vasantha, Rajeshwari, Saroja and Jeeva and they took possession of their father's property. After the death of his brother Chinnaraj @ Muniyappan, his son Madhu has given a representation dated 17.08.2020 to the Tahsildar, Karimangalam seeking to issue Possession Certificate in his name and also in the names of his sisters Vasantha, Rajeshwari, Saroja and Jeeva. Accordingly, a certificate was issued, in which the properties of the petitioner in Survey Nos.11/2, 19 and 18/2B were also included. This was questioned by the petitioner and he attempted to pacify the dispute with his brother's children. At this stage, in order to deprive the petitioner of his own property, the daughters of Chinnaraj @ Muniappan jointly released their share in the above said property of the petitioner in Survey No.19/1, 11/2E and 11/2G, vide registered Release Deed dated 01.10.2020, in favour of Mathu. In this context, the petitioner has given a complaint to the respondents 2 and 3 in which it was specifically stated that Muniraj, the fifth respondent is working as Deputy Superintendent in the Survey and Land Records Department and it is at his instance, the lands of the petitioner were included in the Possession Certificate issued to his brother's son Madhu.

3. The grievance of the petitioner is that based on the possession certificate, his brother's son Madhu executed a partition deed of the properties with his son Gunasekaran/4th respondent and daughters, Nirmala, Umamaheshwari, Sudha and Aruljothi. In Patta No.1125, the names of the daughters of the said Mathu have been added as joint owners and thereby the property of the petitioner has been clandestinely grabbed by them. Pointing out these illegalities, the petitioner submitted a representation on 03.05.2021 seeking to initiate action against the fourth and fifth respondents. As there was no response, the petitioner submitted a complaint dated 01.10.2021 to the Chief Minister's Grievance Cell. In response, by a communication dated 19.01.2022 of the third respondent, the petitioner was called upon to appear for an enquiry on 27.01.2022, on which date, the petitioner appeared and submitted his written explanation dated 31.01.2022. Subsequently, by a communication dated 14.02.2022, the petitioner was called upon to attend an enquiry on 21.02.2022 which was also attended by the petitioner. According to the petitioner, even though he appeared for the enquiry, the respondents 4 and 5 did not appear for such enquiry wilfully.

4. The grievance of the petitioner is that though the third respondent conducted enquiry, in which the statement of the petitioner was also obtained on 31.01.2022, however,



till date, the enquiry was not concluded and no order was passed. Therefore, this writ petition.

5. The learned counsel for the petitioner submits that already an enquiry was conducted by the second respondent on 27.01.2022 and 21.02.2022, in which the petitioner participated. The statement of the petitioner was also obtained on 31.01.2022. However, the third respondent did not conclude the enquiry till date. Therefore, the learned counsel for the petitioner prayed this Court to direct the third respondent to conclude the enquiry against the 4th and 5th respondents, as expeditiously as possible.

6. Mr. V. Manoharan, learned Additional Government Pleader, who takes notice for the respondents 1 to 3, fairly submitted that the petitioner's representation would be considered by the third respondent and appropriate orders will be passed at the earliest.

7. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, without expressing any opinion on the merits of the case of the petitioner, this Court directs the respondent authorities to proceed with the enquiry based on the representation dated 03.05.2021 of the petitioner and the statement of the petitioner dated 31.01.2022 and conclude it by passing appropriate orders on merits and in accordance with law, after affording due opportunity of personal hearing to all the parties concerned, within a period of six 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.

Sd/-

Vacation Officer

//True Copy//

Sub Assistant Registrar

mkkn/rsh

To

1. The Commissioner / Director,
Commissionerate of Survey and Settlement,
No.1, Survey House, Kamarajar Salai,
Chepauk, Chennai - 600 005.

2. The Assistant Director of Survey,
District Collectorate,
Dharmapuri - 636 705.



3. The Divisional Inspector,
Operating Division,
District Collectorate,
Dharmapuri - 636 705.

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+2ccs to Mr.C.Senapathi, Advocate SR. No. 31159
+1cc to Government Pleader SR. Nos.31259, 31287

WP No. 12161 of 2022

JPL (CO)
PR (20/05/2022)