



WEB COPY



W.P.No.23596 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.10.2022

Coram

The Honourable Mr.Justice M.DHANDAPANI

W.P.No.23596 of 2014

Dr.N.M.Mohamed Dhaha

...Petitioner

Versus

1.The Tahsildar,
Sriperumbudur.

2.M.D.Ameerunissa

3.M.D.Kadheeja Banu

4.Rasheeda Begum

5.Mrs.K.Misiriya

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the first respondent to enquire into petitioner's representations dated 21.11.2011, 25.03.2013, 22.06.2013, 24.03.2014 and 26.05.2014 and to pass orders within a period, preferably, of 3 months.

For Petitioner : Mr.A.U.Ilango

For Respondent - 2 : Mr.N.A.Nissar Ahmed

For Respondents – 3 to 5 : No Appearance



ORDER

WEB COPY The relief sought in this writ petition is to direct the first respondent to enquire into petitioner's representations dated 21.11.2011, 25.03.2013, 22.06.2013, 24.03.2014 and 26.05.2014 and to pass orders on the same, within a period of three months.

2. The learned counsel for the petitioner submitted that the petitioner and his younger daughter/third respondent filed a suit for partition in O.S.No.65 of 2009 before the District Court, Vellore, against the second respondent (petitioner's elder daughter) and 13 others (including respondents 4 & 5). He further submitted that during the pendency of said suit, the parties had entered into a Joint Memo of Compromise which was filed before the trial Court on 01.04.2010. On the basis of said Joint Memo of Compromise, the trial Court vide decree and judgment dated 01.04.2010 allotted 'A' Schedule property to petitioner; 'B' Schedule property to third respondent; 'C' Schedule property to second respondent and 'D' Schedule etc., properties to other 13 defendants. The said decree set apart a 6 metre private passage in S.No.557/1A (over 28 cents) for petitioner and the respondents 2, 3 and other defendants in aforesaid suit were allotted 1/4th



WEB COPY

share in common. While so, the petitioner made a representation dated 21.11.2011 before the first respondent to effect sub-division of the properties in terms of Compromise Decree, to demarcate the common passage of the sharers. The third respondent (petitioner's younger daughter) has also made a representation dated 04.06.2012 before the first respondent to the same effect. Again, reiterating the very same request, the petitioner made another representation dated 22.06.2013 before the first respondent. That apart, the petitioner made two other representations dated 25.03.2013 and 24.03.2014 respectively before the first respondent for effecting transfer of Patta as per the terms of decree dated 01.04.2010. However, the first respondent did not consider the above representations of the petitioner, which necessitated the petitioner to file the present writ petition. Therefore, the learned counsel prayed that appropriate direction may be issued to the first respondent to consider the petitioner's representations and pass orders on the same, within a time frame as stipulated by this Court.

3. *Per contra*, the learned counsel appearing for the second respondent submitted that the third respondent's representation dated 04.06.2012 for subdivision of suit schedule property and issuance of patta



in terms of decree dated 01.04.2010 passed in O.S.No.65 of 2009 was rejected by the first respondent vide order dated 07.04.2015. Therefore, he prayed that this writ petition is not maintainable and the same is liable to be dismissed.

4. Heard the learned counsel on either side and perused the materials placed before this Court.

5. As far as this case is concerned, the first respondent has rejected the third respondent's representation dated 04.06.2012, for subdividing and demarcating the suit schedule property and issuing patta as per the terms of decree dated 01.04.2010 passed by the learned District Judge, Vellore in O.S.No.65 of 2009. In the said rejection order, it is clearly stated by the first respondent that it is open to the aggrieved parties to prefer an appeal before the Revenue Divisional Officer, Kancheepuram, within a period of thirty days from the date of receipt of a copy of that order. This shows that the appeal remedy is very much available to the petitioner and the respondents 2 to 5.



W.P.No.23596 of 20..

6. It is to be noted that suit schedule property can be subdivided only when the parties agree to subdivide the same. In this case, prior to the issuance of rejection order, the first respondent issued notice to all the parties including the petitioner and called them for enquiry. On receipt of such notice, the second respondent made objection to the representation of third respondent. Therefore, the first respondent has rightly rejected the third respondent's representation.

7. In the aforesaid circumstances, this Court cannot grant the relief sought by the petitioner. Hence, this writ petition is dismissed, however, liberty is granted to the petitioner as well as respondents 2 to 5 to challenge the order dated 07.04.2015 passed by the first respondent, before an appropriate authority, in the manner known to law. No costs.

13.10.2022

mrr

Index : Yes/No

Speaking Order (or) Non-Speaking Order



WEB COPY



W.P.No.23596 of 20..

M.DHANDAPANI, J.

mrr

Copy to

The Tahsildar,
Sriperumbudur.

W.P.No.23596 of 2014

13.10.2022