

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.09.2022

CORAM

THE HONOURABLE Mrs. JUSTICE V.BHAVANI SUBBAROYAN

Writ Petition (MD) No.219 of 2021

R.Lakshmi

.. Petitioner

Versus

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The Revenue Divisional Officer,
Devakottai, Sivagangai District.

3.The Tahsildar,
Karaikudi,
Sivagangai District.

.. Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the third respondent herein to subdivide and also to issue individual Pattas to the petitioner in respect of lands in S.Nos.147, 41/1, 33/19, 32/2D, 32/19 and Door No.10/10, situated at Malaikandan Village, Kallal Union, Karaikudi Taluk, Sivagangai, as per the final decree dated 26.07.2012, passed in I.A.No.349 of 2010 in O.S.No.38 of 2004, on the file of the District Munsif Court, Karaikudi, within the time limit to be fixed by this Court.

For Petitioner : Mr.AL.Kannan

For Respondents : Mr.A.Kannan
Additional Government Pleader

ORDER

The petitioner has filed this Writ Petition seeking a direction to the third respondent herein to subdivide and also to issue individual Pattas to the petitioner in respect of lands in S.Nos.147, 41/1, 33/19, 32/2D, 32/19 and Door No.10/10, situated at Malaikandan Village, Kallal Union, Karaikudi Taluk, Sivagangai, as per the final decree dated 26.07.2012, passed in I.A.No. 349 of 2010 in O.S.No.38 of 2004, on the file of the District Munsif Court, Karaikudi, within a time frame to be fixed by this Court.

2.According to the petitioner, the aforesaid lands and various other properties belong to the petitioner's ancestors. After the demise of her ancestors, the other co-shares have not given share to the petitioner. Hence, she filed a suit in O.S.No.38 of 2004 before the District Munsif-cum-Judicial Magistrate Court, Karaikudi, seeking partition as against the co-sharers. The said suit was dismissed, vide judgment and decree dated 13.08.2008. Aggrieved over the same, the petitioner has preferred first appeal in A.S.No.16 of 2008 before the Subordinate Court, Devakottai. The said first appeal was allowed, vide the judgment and decree, dated 27.08.2009, granting decree of half share in the suit schedule properties to the petitioner. Based on the said judgment and decree passed in A.S.No.16 of 2008, the petitioner has filed final decree application in I.A.No.349 of 2010 before the District Munsif Court, Karaikudi, in which, an Advocate Commissioner was appointed. After due

inspection of suit schedule properties, the Advocate Commissioner filed his report. On perusal of the Advocate Commissioner's report and the objections raised by both the parties, the learned District Munsif, Paramakudi, passed final decree on 26.07.2012, in which, the above mentioned properties were allotted to the petitioner. As against the said decree, no appeal has been preferred and the final decree passed by the learned District Munsif, Karaikudi, has become final. From the date of passing of final decree, the petitioner is in peaceful possession and enjoyment of the said properties. In order to transfer all the revenue records in respect of the above said properties in her name, the petitioner made several representations, including the representation dated 15.12.2020. Despite the petitioner's repeated requests to dispose of her application for transfer of Patta, based on the final decree passed by the competent Civil Court, till date, the third respondent herein has not chosen to pass any orders. Hence, the present Writ Petition.

3.Today, when the matter is taken up for hearing, Mr.A.Kannan, learned Additional Government Pleader appearing for the respondents submits that the petitioner may be directed to give a fresh representation and the same would be considered by the third respondent in accordance with law, within a time frame.

4.In view of the above said submission made by the learned Additional Government Pleader appearing for the respondents, this Court directs the petitioner to give a fresh representation to the third respondent, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the said representation, the third respondent is directed to consider the same and pass appropriate orders on merits and in accordance with law, after affording an opportunity of hearing to the parties concerned, within a period of six weeks thereafter.

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

Index : Yes/No
smn2

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V.BHAVANI SUBBAROYAN, J.

smn2

Order made in
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