



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.06.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.8922 of 2022

V.Sakkanan

... Petitioner

Vs.

1. The Tahsildar,
Tirupparankundram Taluk,
Madurai District.

2. The Zonal Deputy Tahsildar,
Tirupparankundram Taluk,
Madurai District.

3. The Head Surveyor,
Tirupparankundram Taluk,
Madurai District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to transfer the patta Nos.152, 302, 307 to the petitioner's name for his share in S.Nos.9/12 in extent of 0.18.50 Ares, 9/17 in extent of 0.11.50 Ares, 9/16 in extent of 0.04.00 Ares and 9/13B in extent of 0.10.50 Ares with total extent of 0.44.50 Ares i.e., 1.10 Acres in Othai Alangulam Village, Thirupparankundram Taluk, Madurai District within the stipulated time period fixed by this Court.

For Petitioner : Mr.V.Baskaran

For Respondents : Mr.M.Sarangan,
Additional Government Pleader.

* * *

O R D E R

Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

2. The petitioner and his brother Sakkarai jointly owned 2 acres and 30 cents in the petition mentioned survey numbers. The petitioner claims that there was an oral partition between himself and his brother and that he is presently enjoying 1 acre and 10 cents. The petitioner's brother is said to have alienated portions of the property which was allotted to him in the said oral partition. The petitioner's brother is since no more.



3. All that the petitioner wants is sub division and issuance of separate patta in the name of the petition mentioned survey numbers in respect of 1 acre and 10 cents of land which he is presently enjoying. The petitioner is a senior citizen aged about 83 years. Since his request to the respondents did not elicit any response, the present writ petition came to be filed.

4. When the matter was taken up for hearing, the learned Additional Government Pleader pointed out that admittedly, the property stood only in the name of the parents and following their demise in the names of the writ petitioner and his brother.

5. If according to the petitioner there was an oral partition, then he must place materials in support of his claim. Since the petitioner's brother Sakkarai Thevar is no more, the children of the deceased brother must appear before the first respondent and express their no objection to concede the petitioner's request. In my view the stand taken by the learned Additional Government Pleader is absolutely justified and well founded. At the same time, the first respondent cannot keep the petitioner's representation pending without any decision being taken. The petitioner had submitted an online application as early as on 07.04.2022.

6. The first respondent is directed to issue notice to the petitioner fixing the enquiry date. The petitioner in the meanwhile shall furnish the legal heir certificate of his brother Sakkarai Thevar. The first respondent shall issue notice to all the legal heirs of the deceased brother. After getting their no objection, the first respondent shall effect sub division as well as issue patta in favour of the writ petitioner. If the children of the petitioner's brother do not support the petitioner's claim of oral partition, then the petitioner will have to necessarily move the jurisdictional civil Court. The entire exercise will be concluded by the first respondent within a period of twelve weeks from the date of receipt of a copy of this order.

7. With these directions, this writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar (C.O)

// True Copy //

/06/2022

Sub Assistant Registrar(CS)



To:

1. The Tahsildar,
Tirupparankundram Taluk,
Madurai District.
2. The Zonal Deputy Tahsildar,
Tirupparankundram Taluk,
Madurai District.
3. The Head Surveyor,
Tirupparankundram Taluk,
Madurai District.

+1 CC to M/s.SPL.GP. (SR-25604[F] dated 14/06/2022)

W.P. (MD)No.8922 of 2022
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