



W.P.(MD).No.24015 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.11.2022

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.24015 of 2022

V.Jeya

... Petitioner

vs.

1.The District Collector,
Madurai District,
Madurai.

2.The Tahsildar,
Thirumangalam Taluk,
Thirumangalam,
Madurai.

3.Prabhu
4.Saravanan

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the second respondent to consider the petitioner's representation dated 29.09.2022 and direct the second respondent to survey her land situated in S.No. 213/25B at K.Puliyakulam Village, Thirumangalam Taluk, Madurai District, within the time stipulated by this Court.



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For Petitioner : Mr.R.Aravindraaj
For R1 & R2 : Mr.A.Kannan
Additional Government Pleader
For R3 & R4 : Mr.K.Jayaseelan

ORDER

This Writ Petition has been filed for issuance of a Writ of Mandamus, directing the second respondent to consider the petitioner's representation dated 29.09.2022 and survey her land in S.No.213/25B situated at K.Puliyakulam Village, Thirumangalam Taluk, Madurai District.

2. The case of the petitioner is that she is having ancestral properties in S.No.213/25B at K.Puliyankulam Village, Thirumangalam Taluk, Madurai District and the properties jointly possession and enjoyment of the petitioner and the respondents 3 and 4. The respondents 3 and 4 are her brothers and they denied her shares. Subsequently, she has filed a suit in O.S.No.191 of 1999 before the learned District Munsif,



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Thirumangalam and the same was decreed in favour of her. Thereafter, she has filed a final decree application in I.A.No.900 of 2006 and the same was allowed by the learned District Munsif, Thirumangalam and the property in S.No.213/25B to an extent of 0.2.50 ares allotted to her by way of appointing Advocate Commissioner. The second respondent has issued a patta in favour of the petitioner in Patta No.4440 and she is in possession and enjoyment of the same. The respondents 3 and 4 had not filed any appeal before any Court of law and the decree passed by the learned District Munsif, Thirumangalam is in force. The petitioner has sent a representation dated 13.08.2021, to the second respondent to survey and fix boundaries in S.No.213/25B and she has also paid necessary fees. But the second respondent had not taken any steps. Hence, she has sent another representation through registered post on 29.09.2022. Since the said representation has not been considered, the present writ petition has been filed.

3. The learned counsel appearing for the respondents 3 and 4 has filed a counter stating that their father Chelliah has two more legal heirs



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other than the petitioner, R3 and R4, totally five legal heirs. The petitioner has suppressed the other two legal heirs in O.S.No.191 of 1999 and subsequently, in I.A.No.900 of 2006 also and got the final decree as ex-parte. Further, the respondents 3 and 4 are ready and give the actual share to the petitioner, after completion of the fair trial before the learned District Munsif, Thirumangalam in the partition suit, which was filed by the petitioner in O.S.No.191 of 1999, for that, the respondents had filed an ex-parte set aside petition before the Principal District Munsif with condone delay petition and the same is pending.

4. Heard the learned counsel for the petitioner, learned Additional Government Pleader appearing for the respondents 1 and 2 and the learned counsel appearing for the respondents 3 and 4.

5. On perusal of the records, it is seen that the petitioner has filed the suit in the year 1999 and obtained a decree and the Execution Application has also been filed for execution of the said decree. In the circumstances, the petitioner cannot approach this Court and as per the



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preliminary decree, she has to approach the competent civil Court seeking the remedy. Hence, this Writ Petition is dismissed. No costs.

29.11.2022

Index: Yes/No
Internet: Yes/No

akv

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