



W.P.No.34773 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.11.2024

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.34773 of 2024

&

W.P.No.37710 of 2024

A.Karthikeyan

...Petitioner

Vs.

1.The State of Tamil Nadu
Rep by its Secretary to the Government,
Revenue Department,
Fort St George,
Chennai- 09.

2.The District Collector
Dharmapuri District.

3.The District Revenue Officer
Dharmapuri District.

4.The Assistant Director of Survey and Land Records
Dharmapuri District.

5.The Tashildar
Dharmapuri Taluk, Dharmapuri District.

6.The Village Administrative Officer



W.P.No.34773 of 2022

Seemandakuppam Village,
Dharmapuri District.

...Respondents

WEB COPY

Prayer: Writ Petition is filed under Article 226 to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order passed by the 5th respondent in his proceedings Na.Ka. 3786/ 2022 /A1, dated 07.10.2022 and quash the same and consequently directing the 4th respondent for sub division and patta transfer in the name of the petitioner in respect of the property having an extent of 1.75 acres (1/ 3rd share) comprised in Survey No.309/11 situated at Semmandakuppam Village, Dharmapuri District.

For Petitioner : Mr. Krishnasamy Chinnasamy

For Respondents : Mr. A.Selvendran
Special Government Pleader.

ORDER

Challenging the order passed by the 5th respondent dated 07.10.2022 in and by which the petitioner's request for subdivision and grant of patta had been rejected, the petitioner is before this Court.



W.P.No.34773 of 2024

2. It is the contention of the petitioner that the property measuring an extent of 3.50 acres comprised in S.No.309/11, Semmandakuppam Village, Dharmapuri District, originally belonged to his grand father, Govindhan. His grand father, Govindhan has three children, namely, Poongodhai (petitioner's mother), Shanmugavalli and Sakthivel. After the demise of the petitioner's grand father, his son Sakthivel denied to give a share of the land to his sisters.

3. Therefore, the petitioner's mother had filed a suit in O.S.No.128 of 2004 on the file of the District Munsif Court, Dharmapuri for partition. Ultimately, a final decree was passed on 17.12.2013 stating that the property has to be equally divided and the property marked as A schedule was allotted to the petitioner's mother.

4. On 22.08.2020, the defendants in the suit attempted to trespass into the petitioner's property. Thereafter, the petitioner's mother had transferred her share in favour of the petitioner on the basis of the decree in O.S.No.128 of 2004. Thereafter, the petitioner had applied



for subdivision and for transfer of patta in respect of an extent of 1.75 acres.

5. The 4th respondent had issued a summon dated 27.09.2012 to the petitioner to appear before him along with original documents on 06.10.2022. The petitioner appeared and submitted the documents. However, the application was kept pending and therefore, the petitioner filed W.P.No.7161 of 2022 to consider the said application. This Court directed the respondent to dispose of the application on merits within a period of 12 weeks.

6. Ultimately, by order dated 07.10.2022, the said application was rejected stating that the request cannot be processed as Execution Petition was pending on the file of the District Munsif, Dharmapuri. Challenging the same, the petitioner is before this Court, that too nearly 2 years after the impugned order has been passed.

7. Heard the learned counsels on the either side and perused the



documents.

WEB COPY

8. A perusal of the documents filed would indicate that the property which has been described as “A” in the sketch attached to the final decree has been allotted to the share of the petitioner's mother. It appears that the property is not in possession of the petitioner since the execution petition have been filed by the petitioner for recovery of possession. That being the case, the request for subdivision and grant of patta cannot be granted at this stage. Once physical possession of the property is taken the same can be measured and subdivided. Therefore, there is no infirmity in the order passed by the 5th respondent.

9. However, once possession is recovered by the petitioner in the Execution Proceedings, the petitioner shall renew the application within a period of 12 weeks from the date of receipt of a copy of the order in Execution Petition and within a period of 8 weeks from the date of receipt of such application, the 5th respondent shall process and issue



W.P.No.34773 of 2024

patta to the petitioner.

WEB COPY

10. The Writ Petition is disposed of. Consequently, the connected miscellaneous petition is closed. No costs.

26.11.2024

Index : Yes/No
Internet : Yes/No
kan



WEB COPY



W.P.No.34773 of 2024

To

1.The State of Tamil Nadu
Rep by its Secretary to the Government,
Revenue Department,
Fort St George,
Chennai- 09.

2.The District Collector
Dharmapuri District.

3.The District Revenue Officer
Dharmapuri District.

4.The Assistant Director of Survey and Land Records
Dharmapuri District.

5.The Tashildar
Dharmapuri Taluk, Dharmapuri District.

6.The Village Administrative Officer
Seemandakuppam Village,
Dharmapuri District.



WEB COPY



W.P.No.34773 of 2024

P.T. ASHA, J,

kan

W.P.No. 34773 of 2024

26.11.2024