



W.P.(MD) No.24256 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.08.2024

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD)No.24256 of 2018

Santhakumari

... Petitioner

Vs.

1.The Commissioner of Survey Settlements
and Land Records,
Chepauk,
Chennai – 600 005.

2.The Commissioner of Land Administration,
Ezhilagam,
Chepauk,
Chennai – 600 005.

3.The District Collector,
Kanyakumari District,
Nagercoil.

4.The Tahsildar,
Thovalai Taluk,
Boothapandi,
Kanyakumari District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Mandamus, directing the fourth respondent to assign the Survey No.853/2010, which is not available in revenue records due to the bifurcation of Shenbagaramanpudur Village and Madhavalayam Village on the basis of petitioner's representation dated 08.09.2018.



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For Petitioner : Mr.M.Sankar

For Respondents : Mr.S.P.Maharajan
Special Government Pleader

ORDER

The petitioner has filed this Writ Petition to direct the fourth respondent to assign Survey No.853/2010, which is not available in revenue records due to the bifurcation of Shenbagaramanpudur Village and Madhavalayam Village on the basis of petitioner's representation dated 08.09.2018.

2. The learned counsel for the petitioner submits that the petitioner is the owner of an extent of 3 cents of land pursuant to a Will executed by the petitioner's father namely, Sankaranarayana Pillai on 11.02.1998. It is submitted that although the petitioner is in possession of the property measuring an extent of 3 cents, due to bifurcation of the two Villages, the petitioner is unable to pay the necessary vacant land tax for the property.

3. On the other hand, the learned Special Government Pleader for the respondents submits that the land in R.S.No.853/10, measuring an extent of 0.15.0 Hectares of dry Patta land has been subdivided into



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R.S.Nos.853/10A1, 10A2, 853/10B, 853/10C and 853/10D and that the

land of the petitioner is in R.S.No.853/11.

4. The fourth respondent has filed a counter affidavit, wherein at Paragraph Nos. 3 to 5 and 9, it has been stated as follows:-

"3. It is humbly submitted that the writ petitioner Santhakumari C/o.Bhagavathiappan has filed this writ petition for the prayer that to assign the Survey number 853/10 which is not available in Revenue records due to bifurcation of Shenbagaramanputhoor Village and Madhavalayam Village on the basis of her representation dated 08.09.2018 and pass such further or other orders as this Hon'ble court may deem fit. The writ had got title right over the property comprised in R.Sy.No.853/10 of Madhavalayam Village vide a will document executed by his father Thiru.Sankaralingam Pillai S/o.Sasthankutty Pillai in Document No.32/1998 of the Joint Registrar, Nagercoil - II. The old survey number for the R.Sy.Nos.853/10 and 853/11 are same. The will executor mistakenly indicates the R.Sy.No.853/10 instead of R.Sy.No.853/11 of Shenbagaramanputhoor Village (now Madhavalayam Village after bifurcation of Villages). This mistake committed in the will document executed by the executor of the will, the writ petitioner ill-grounded the fact behind the reality and filed this writ petition indecipherably and hence this writ petition deserves no consideration and liable to be dismissed.

4.It is to submit that para 2-5 all the averments in these para are not fully correct and denied. The petitioner's prayer to assign the survey number is a wrong one. Already the R.Sy.No.853/10 exists in



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ground and as per records and the same is in possession and enjoyment of different persons but not related to the petitioner. The R.Sy.No.853/10 having an extent of 0.15.0 hectares of dry patta land and the above land was subdivided into R.Sy.No.853/10A1, 10A2, 853/10B, 853/10C and 853/10D based on their title rights possession and enjoyment.

5. It is humbly submit that when go through the will document executed by the petitioner's father, it is enunciated that while writing will document the executor of will document mistakenly mentioned the R.Sy.No.853/10 instead of R.Sy.No.853/11 since the old survey number for the R.Sy.Nos.853/10 and 853/11 are same. And hence the executor of will mistakenly wrote the wrong survey number and result in the writ petitioner ill-grounded the fact behind the reality and filed this writ petition indecipherably.

9. It is humbly submit that the writ petitioner's property is in R.Sy.No.853/11 of Madhavalayam Village in Thovalai Taluk as the boundaries correlate with the said survey number 853/11 but her prayer to assign survey number in 853/10 is not genuine as per Tamil Nadu Survey and Boundary Act, 1923 and hence this writ petition has no consideration and liable to dismissed."

5. Having considered the submissions made by the learned counsel for the petitioner and the learned Special Government Pleader for the respondents and considering the documents that are available before this Court, this Court is inclined to direct the fourth respondent to re-survey the property, which the petitioner claims to be in possession and issue suitable Patta if the property indeed falls in S.No.853/11 to facilitate the



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petitioner to pay the necessary tax. This exercise may be completed by the fourth respondent within a period of 12 weeks from the date of receipt of a copy of this order.

6. This Writ Petition stands disposed of with the above direction.

No costs.

Index : Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order
smn2

02.08.2024

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C.SARAVANAN, J.

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