



W.P.(MD) No.25726 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.10.2024

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.25726 of 2024

Jose Fredy Millar

.. Petitioner

Vs.

1.The District Collector,
Kanyakumari District.

2.The Revenue Divisional Officer,
Padmanabhapuram,
Kanyakumari District.

3.The Tahsildar,
Kalkulam Taluk,
Kanyakumari District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the respondents to consider the representation of the petitioner, dated 15.05.2014 in the light of the decree passed by the Sub Court, Padmanabhapuram in O.S.No. 55/1988, dated 10.12.1991.

For Petitioner : Mr.A.Balakrishnan



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For Respondents : Mr.P.Thambidurai
Government Advocate

ORDER

The present writ petition has been filed seeking a mandamus to the respondents to consider the representation of the petitioner, dated 15.05.2014 in the light of the decree passed by the Sub Court, Padmanabhapuram in O.S.No.55/1988, dated 10.12.1991.

2. The petitioner would submit that the property in question was owned by his father who was enjoying by planting rubber and other valuable trees. The revenue authorities has disturbed his father's possession and the said lands. Therefore, he was constrained to file O.S.No.55 of 1988 on the file of the Sub Court, Padmanabhapuram for a declaration and injunction. The suit was decreed in favour of the petitioner's father on 10.12.1991. Aggrieved by the same, the 1st respondent had preferred an appeal with a delay of 227 days in I.A.No. 545 of 1992 in A.S.SR.No.5114 of 1992. After hearing both the parties, the delay petition was dismissed. The civil revision petition in C.R.P.No.



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1522 of 1995 which was filed against the said order also has been dismissed on 13.07.1995. Therefore, the decree in O.S.No.55 of 1988 had attained finality.

3. The petitioner's father died on 02.11.2002 and thereafter, partition was effected and the petitioner was allotted 4 acres 98 cents in Re.Sy.No.838 of Mecodu Village. The petitioner had made several representations thereafter for issuance of separate patta for the property allotted to him. A writ petition in W.P.(MD)No.11259 of 2014 also did not evoke any response, though this Court had directed the respondents to consider and pass orders within a period of two months. On receipt of contempt notice, the Tahsildar had rejected the petitioner's request on 12.11.2014 stating that the petitioner is not a party to the suit and on the ground that the Civil Court did not direct the respondents to issue patta. The petitioner who had preferred the writ petition was asked to avail an alternative remedy. The petitioner had preferred an appeal before the 2nd respondent on 09.07.2015. However, to date the appeal has not been considered and orders have not been passed. The petitioner has also



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indicated that he is not able to remove the aged trees and replant the fresh trees as patta has not been granted to him. Therefore, the petitioner is before this Court.

4. Heard the learned counsel on either side.

5. Taking note of the fact that the appeal has been pending for over 10 years, a mandamus is issued to the 2nd respondent to dispose of the petitioner's appeal, dated 09.07.2015 within a period of four (4) weeks from the date of receipt of copy of this order.

6. With the above directions, this Writ Petition stands allowed. No costs.

28.10.2024

NCC : Yes/No
Index : Yes/No
Internet : Yes

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To

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P.T.ASHA, J.

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