



W.P.(MD)No.12066 of 2018

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.04.2025**

CORAM:

THE HONOURABLE MR JUSTICE P.B. BALAJI

W.P.(MD)No.12066 of 2018
and
W.M.P(MD)No.10998 of 2018

S.Shanmugam

.... Petitioner

/Vs/

1. The Sub Collector,
Paramakudi, Ramanathapuram District
 2. The Tahsildar
Paramakudi Taluk, Ramanathapuram District
 3. T.Meenakshisundaram,
Zonal Deputy Tahsildar, Paramakudi Taluk,
Ramanathapuram District
 4. Naganathan
- Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order of 1st respondent made in Pa.Mu.(A4)5898/2016 dt. 28.03.2018 confirming the order of the 3rd respondent made in Ni.Mu.L1-8094/2016 dt.14.06.2016 and quash the same as it is arbitrary and illegal and in consequence to direct the respondents 1 and 2 to restore the patta No.243 for the land measuring 3 Acre 9 Cents in S.No.



W.P.(MD)No.12066 of 2018

WEB COPY

197/1 and new T.S.No.3/1 in Emaneswaram village in Paramakudi Taluk in Ramanathapuram District.

For Petitioner : Mr.R.Suriyanarayanan
For R1 & R2 : Mr.B.Saravanan
Additional Government Pleader
For R4 : Mr.G.Prabhu Rajadurai
for Mr.K.Muthumalai

ORDER

I have heard the learned counsel appearing for the petitioner and Mr.B.Saravanan, learned Additional Government Pleader appearing for the official respondents and Mr.G.Prabhu Rajadurai, learned counsel appearing for the fourth respondent.

2. The issue revolves around the right of one Shenbagavalli, who was the daughter of Ramasamy. The property contains 26 items originally belongs to joint family of the said Ramasamy and his brother Sundararaj Pillai. After the said Ramasamy passed away, leaving behind no male heirs, the children of the Sundararaj Pillai namely the writ petitioner and other legal heirs have got their names mutated in the revenue records. The suit filed by the Shenbagavalli seeking partition was dismissed on the ground that her father Ramasamy died before 1956



W.P.(MD)No.12066 of 2018

WEB COPY

and therefore as a female heir, the Shenbagavalli would not be entitled to any right. Challenging the dismissal of the suit for partition, first appeal has been filed and it is pending in A.S.No.237 of 2019, on the file of the Sub-Court, Manamadurai.

3. The learned counsel appearing for the fourth respondent Mr.G.Prabhu Rajadurai would, therefore, submit that direction can be issued to the Sub-Court, Manamadurai to expedite disposal of the first appeal, so that, the parties will know where they stand and thereafter, necessary mutation can be given effect to the revenue records.

4. The learned counsel for the petitioner would submit that suit for partition has been dismissed and therefore, the mutation including the name of the said Shenbagavalli cannot subsist and it has to go, unless the fourth respondent succeeds in A.S.No.237 of 2019, it may not be necessary for the inclusion of the fourth respondent name in the revenue records.



W.P.(MD)No.12066 of 2018

WEB COPY

5.Considering the fact that the law with regard to succession has taken a sea change all together with the pronouncement of the Supreme Court in *Vineeta Sharma vs Rakesh Sharma* reported in *AIR 2020 SUPREME COURT 3717= AIR ONLINE 2020 SC 676* case, the fourth respondent has a prima facie good case in the first appeal, challenging the dismissal of the suit for partition which came to be dismissed holding Shenbagavalli being a female heir and her father having died prior to 1956 when the Hindu Succession Act came into force, was not entitled to any right. Therefore, it would be just and proper to direct the Sub Court, Manamadurai to dispose of the appeal in A.S.No.237 of 2019 on or before 30.06.2025 and subject to the final outcome in the appeal suit, necessary mutations can be effected thereafter, by the successful party.

6. In fine the writ petition is disposed of with the above direction.

No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No

NCC : Yes / No

am

04.04.2025



W.P.(MD)No.12066 of 2018

WEB COPY
To

1. The Sub Collector,
Paramakudi, Ramanathapuram District
2. The Tahsildar
Paramakudi Taluk, Ramanathapuram District



WEB COPY



W.P.(MD)No.12066 of 2018

P.B. BALAJI, J.
am

Order made in
W.P.(MD)No.12066 of 2018

Dated:
04.04.2025