

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2015

CORAM

THE HON'BLE MR. JUSTICE N.KIRUBAKARAN

W.P.No.25221 of 2015

and

M.P.No.1 of 2015

S.Jayaraman

.. Petitioner

Vs.

1.The District Collector,
Perambalur District,
Perambalur.

2.The Tahsildar,
Veppanthattai Taluk.

3.The Joint Director of Surveys,
Perambalur.

4.The Sub Inspector of Surveys,
Perambalur.

5.Vasanthi.

.. Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of Mandamus directing the respondents 2 to 4 to effect proper survey and measurement of the properties of the petitioner in S.F.No.557/2 - 40 cents, S.F.No.557/3 - 1.21 acres, S.F.No.557/4 - 1.20 acres, S.F.No.557/5 - 0.78 cents, S.F.No.557/6 - 0.35 cents, S.F.No.557/7B - 0.52 cents, S.F.No.557/8 - 0.52 cents, S.F.No.578/1 - out of 4.75 acres - 2.96 acres, S.F.No.578/2 out of 2.92 acres - 90 cents, S.F.No.578/2 out of 2.92 acres 2.02 acres and the half share in common well situate in S.F.No.578/1 all situate in Annamangalam Village, Veppanthattai Madura, Veppanthattai Taluk, Perambalur District, by planting stones for fixing limits and also forbear the respondents from acquiring the petitioner's land without any notice in accordance with the Right to fair compensation and transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

For Petitioner

.. Mr. N.Suresh

For Respondents 1 to 4

.. Mrs.M.E.Rani Selvam,
Additional Government Pleader

ORDER

Mrs.M.E.Rani Selvam, learned Additional Government Pleader takes notice for the respondents 1 to 4.

2. The petitioner contends that he purchased 7 acres of land on 22.11.2004 from Athiyappan and Saraswathi on 22.11.2004 and again 3.86 acres from Athiyappan on 23.5.2005 and he is alleged to have been in possession. The said properties are comprised in S.F.No.557/2 - 40 cents, S.F.No.557/3 - 1.21 acres, S.F.No.557/4 - 1.20 acres, S.F.No.557/5 - 0.78 cents, S.F.No.557/6 - 0.35 cents, S.F.No.557/7B - 0.52 cents, S.F.No.557/8 - 0.52 cents, S.F.No.578/1 - out of 4.75 acres - 2.96 acres, S.F.No.578/2 out of 2.92 acres - 90 cents, S.F.No.578/2 out of 2.92 acres 2.02 acres and half share in common well situate in S.F.No.578/1, and the said properties are situate in Annamangalam Village, Veppanthattai Madura, Veppanthattai Taluk, Perambalur District. The said properties are in joint patta along with the other land owners and as also adjacent land owner, namely, Vasanthi - 5th respondent herein on the southern side.

3. According to the petitioner, the said Vasanthi often created boundary disputes on the southern side. Therefore, the petitioner gave a representation to the respondents 1 to 4 to measure the property and sub-divide the Survey Numbers and, inspite of that, the respondents have not carried out the measurement and subdivided the survey number. Therefore, he has come before this Court seeking for a Writ of Mandamus.

4. Heard Mr.N.Suresh, learned counsel appearing for the petitioner and Mrs.M.E.Rani Selvam, learned Additional Government Pleader, appearing for Respondents 1 to 4. Notice to the fifth respondent is dispensed with as this Court is going to direct the respondents 2 to 4 to carry out the measurements only after giving an advance notice to the fifth respondent and therefore, no prejudice would be caused to the fifth respondent.

5. The petitioner contends that he is the owner of the property by virtue of two sale deeds and he is in possession and there is a dispute with the fifth deponents on the southern side with regard to the boundary, the petitioner has also paid proper fee for carrying out the measurement. Joint Pata dated 6.6.2015 is also perused and the name of the petitioner also finds place along with the fifth respondent. In this regard, the petitioner has given a representation and also paid necessary fee on 2.2.2105. If it is for measurement and for sub-division as the properties are found in the joint patta, the respondents 2 to 4 have to necessarily carry out the measurement and thereafter, sub-divide the survey number so that separate patta can be issued to the petitioner and the fifth respondent.

6. For the above reasons, this Court directs the Respondents 2 to 4 to fix the date for measuring the properties and inform the fifth respondent in advance about the measurement to be carried out, so that the fifth respondent can also be present at the time of measurement. In the presence of the petitioner as well as the fifth respondent and correlating with the title of the documents of the fifth respondent as well as that of the petitioner, the respondents have to measure and sub-divide the survey numbers. It is made clear that without notice to the fifth respondent, no measurement can be taken.

7. As far as the second limb of the prayer is concerned that is for giving notice before acquisition of land, it cannot be granted as it is not contemplated in the statute. Therefore, this prayer is rejected. In case of acquisition, the respondents have to acquire the land as per the provisions of the statute.

8. With the above observation, the Writ Petition is disposed of. The connected Miscellaneous Petition is closed. No costs.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

asvm
To

- 1.The District Collector,
Perambalur District,
Perambalur.
- 2.The Tahsildar,
Veppanthattai Taluk.
- 3.The Joint Director of Surveys,
Perambalur.
- 4.The Sub Inspector of Surveys,
Perambalur.

+1 cc to The Government Pleader, sr.43544
+1 cc to Mr.N.Suresh, Advocate, sr.43069

W.P.No.25221 of 2015
and
M.P.No.1 of 2015

jp(co),kra(26/08)