



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.12.2015

CORAM:

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P(MD)No.10194 of 2015

and

M.P. (MD)No.1 of 2015

V.Namasivayam

... Petitioner

-vs-

1.The Deputy Superintendent of Police,
Thanjavur District,
Thanjavur

2.The Deputy Superintendent of Police,
Vallam, Thanjavur.

3.The Inspector of Police,
Thanjavur Taluk Police Station,
Thanjavur District.

4.A.Nallu

... Respondents

*(R4 impleaded vide
order dated 16.07.2015)

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to provide adequate police protection to conduct an authentic land survey in Survey Number bearing 496/28 situated in the Kasanaduputhur Village, Thanjavur Taluk, Thanjavur District in a transparent manner.

For Petitioner	: Mr.K.K.Samy
For Respondents	: Mr.D.Muruganandham
(R1 to R3)	Addl. Govt. Pleader
For Respondent-4	: Mr.P.Sesubalan Raja

O R D E R

The petitioner seeks for a Writ of Mandamus, directing the respondents to provide adequate police protection to conduct an authentic land survey in Survey Number bearing 496/28 situated in the Kasanaduputhur Village, Thanjavur Taluk, Thanjavur District in a transparent manner.

<https://hcservices.ecourts.gov.in/hcservices/>

2.Mr.D.Muruganandham, Additional Government Pleader takes



notice for the respondents 1 to 3.

3. It is not in dispute that the petitioner is the owner of the property in Survey Number 496/28, to an extent of 9 cents, situated in Kasanaduputhur Village, Thanjavur Taluk, Thanjavur District. The case of the petitioner is that the 4th respondent is unnecessarily preventing the petitioner from conducting the survey. Therefore, the petitioner has come forward with the aforesaid relief.

4. The case of the 4th respondent is that he is the owner of 5 cents in Survey No. 496/21 and that the petitioner is trying to encroach two cents of the property in Survey No.496.21 and a civil suit had already been filed. The 4th respondent has also drew the attention of this Court to the Judgment of the civil Court, wherein in paragraphs 8 and 9, it has been stated as follows:-

"8. Ex.A2 is the copy of judgement in O.S.No.597/1994 wherein the suit filed by the first plaintiff against the defendant for permanent injunction regarding the property in S.No.121/11/A4 to an extent of 11 cents was dismissed after full trial. Ex.A3 is the certified copy of the judgement in O.S.No.327/2005 filed by this respondent / defendant against the appellant / plaintiff for permanent injunction regarding the property in S.No.496/21 to an extent of 5 cents is decreed as prayed for. From the above Judgement it is already established that the respondent / defendant is entitled and in possession and enjoyment of S.No.496/21 to an extent of 5 cents. The appellant / plaintiff is entitled and is in possession and enjoyment of 9 cents in S.NO.496/28. So the above judgments do not confer any title or prove possession and enjoyment in the suit property of 2 cents in S.No.496/28 by the appellants / plaintiffs. Therefore, it is decided that the appellants / plaintiffs have not entitled to the relief of declaration and permanent injunction regarding the suit property to an extent of 2 cents in S.No.496/28. There is no necessity to interfere with the decree and judgment of the lower court.

9. In the result, appeal is dismissed. The decree and judgment of the District Munsif Court, Thanjavur dated 29.11.2012 is confirmed. There is no order as to costs.

5. In the result, the petitioner is the owner of the property to an extent of only 9 cents or above can be decided only on surveying the land. Therefore, the Inspector of Police, Thanjavur Taluk



Police Station, is directed to give police protection to the petitioner to survey the land. This Court makes it very clear that since the 4th respondent has the benefits of the Judgment of civil Court, the property, which is in enjoyment of the 4th respondent shall not be allowed to be surveyed by the surveyor.

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6. With the above direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

MPK
To

- 1.The Deputy Superintendent of Police,
Thanjavur District,
Thanjavur
- 2.The Deputy Superintendent of Police,
Vallam, Thanjavur.
- 3.The Inspector of Police,
Thanjavur Taluk Police Station,
Thanjavur District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High court, Madurai.

+1CC to Mr.K.K.Samy Advocate Sr.No.72306
+1CC to Mr.P.Sesubalan Advocate Sr.No.71911
+1CC to Spl.Government Advocate Sr.No.72227

GJM/JGB/DP/5.1.16-3P-8C

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