



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 24.08.2015
CORAM
THE HONOURABLE MR.JUSTICE R.SUBBIAH
W.P. (MD)No.15149 of 2015
and
M.P. (MD)No.1 of 2015

K.S. RAJASHANMUGHA VEL

.. Petitioner

Vs.

1. THE DISTRICT COLLECTOR,
TIRUCHIRAPPALLI.

2. THE SUB COLLECTOR,
LALGUDI, TIRUCHIRAPPALLI DISTRICT.

3. THE TAHSILDAR,
MANACHANALLUR TALUK,
TIRUCHIRAPPALLI DISTRICT.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a WRIT OF MANDAMUS directing the respondents to comply with the demands made in the petition dated 19.11.2013 by conducting survey of the lands belonging to the petitioners in S.F.No.45/1 to an extent of Acre 5 and 30 cents in Koothoor village, Manachanallur Taluk, Tiruchirappalli District morefully described in the schedule to the writ petition, within the time limit fixed by this Court.

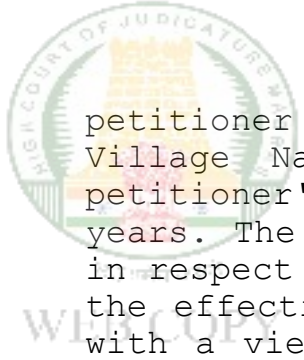
For Petitioner	: Mr.M.Venkatachalapathy for Mr.R.Devaraj
For Respondents	: Mr.M.Murugan Government Advocate

O R D E R

This writ petition has been filed for a Writ of Mandamus directing the respondents to comply with the demands made in the petition dated 19.11.2013 by conducting survey of the lands belonging to the petitioners in S.F.No.45/1 to an extent of Acre 5 and 30 cents in Koothoor village, Manachanallur Taluk, Tiruchirappalli District morefully described in the schedule to the writ petition.

2.Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents.

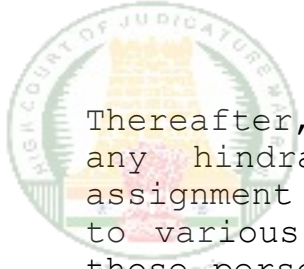
3.It is the case of the petitioner that the lands in S.F.No.45/1 to an extent of 5 acres and 30 cents with coconut trees were under the possession and enjoyment of the petitioner and his predecessor in title who are the forefathers of the petitioner. The



petitioner further submits that the lands are unobjectionable Village Natham and under the possession and enjoyment of the petitioner's and their predecessor in title for over a period of 100 years. The petitioner is paying the property tax and other revenues in respect of the lands in that survey number from day one and is in the effective uninterrupted possession. While so, in the year 1975 with a view to rehabilitate the occupants who are affected by the construction of over bridge, the revenue authorities under the mistaken impression, started making assignment of the lands which are under the possession and enjoyment of the petitioner and their predecessor in title.

4.It is the further case of the petitioner that the enjoyment of the forefathers of the petitioner was by constructing a farm house and by rearing a coconut thope having more than 1000 coconut trees. Originally, one Arumugam Pillai was in enjoyment and he was succeeded by his only daughter Meenakshi Sundarathmal. The said Meenakshi Sundarathmal was married to N.S.Raju Pillai and as they did not have any issue, the petitioner being the nephew of Rajupillai, he was taken on adoption by Rajupillai and Meenakshi Sundarathmal. Since Meenakshi Sundarathmal died on 30.04.1978, the property was inherited by her husband Rajupillai and the petitioner. The said Raju pillai died on 22.05.1983 bequeathing the property in favour of the petitioner by means of a registered Will in the year 1982. Therefore, the petitioner and his predecessor in tile are in continuous, uninterrupted possession and enjoyment of the lands for over a period of 150 years as on date.

5.It is the also the case of the petitioner that the total extent in S.F.No.45 is 8 acres and 67 cents which were sub divided as S.F.no.45/1 and the title of the petitioner and their predecessor in title has been recognized in respect of the lands under occupation of the lands measuring 5 acres and 30 cents. Since the revenue authorities on political pressure and in total ignorance of the petitioner's title started interfering into his possession and enjoyment by way of cutting coconut trees, the petitioner's mother has filed O.S.No.1283 of 1975 on the file of the District Munsif, Tiruchirappalli for a permanent injunction restraining the respondents therein from in any way interfering with the petitioner's peaceful possession and enjoyment of the petitioner lands in S.F.No.45/1 to an extent of 5 acres and 30 cents with trees. As the defendants therein did not even file any written statement in the suit, it came to be decreed on 25.10.1976 and it has become final. Thereafter, in view of the illegal and unauthorized action on the part of the governmental authorities, the petitioner's mother filed a writ petition in W.P.No.7247 of 1975 before the Principal Bench of this Court. On receipt of notice, the governmental authorities had rectified these mistakes by re-allotting the lands to the displaced persons as stated already. Therefore, the petitioner's mother brought this fact to the notice of this Court and on that basis, this Court on 29.11.1977 dismissed the said writ petition as there is nothing to be adjudicated.



Thereafter, the petitioner was allowed to enjoy the property without any hindrance. However, the fourth respondent started making assignment in the survey numbers without specifying the boundaries to various persons under the category of landless, poor etc., and those persons started encroaching the property of the petitioner in S.F.No.45/1. Hence, the petitioner has filed W.P.No.10740 of 1984 for a Mandamus forbearing the respondents therein from interfering with the possession and enjoyment of the petitioner by issuing 'B'memo and house tax receipts in favour of the persons, who have no right over the lands measuring to an extent of 5 acres and 30 cents comprised in Survey No.45/1, Koothoor Village, Pitchandar Koil (Post), Manachanallur Taluk, Lalgudi, Tiruchirappalli. This Court by order dated 11.04.1994 disposed of the said writ petition directing the respondents therein not to interfere with the possession of the petitioner except in accordance with the law and without acting in demarcation of the rights of the petitioner under the Judgment and decree of the Civil Court.

6.It is the further case of the petitioner that without reference to all these facts, the respondents, misusing their jurisdictional power, are creating third party interest by tacitly stating that the creation of third party interest is not in respect of the lands of the petitioner. However, the assignment orders are all not given to the petitioner and are bereft of particulars to the extent and boundaries of the lands assigned to the various persons. All these problems can be given a quietus if the respondents are directed to measure and demarcate the lands belonging to the petitioner's land in S.F.No.45/1 to an extent of 5 acres and 30 cents. Hence, the petitioner has filed an application on 19.11.2013 before the first respondent to measure the lands. The first respondent forwarded the same to the Tabsildar. The petitioner also remitted the fee for measurement on 18.03.2014. But there is no justification on the part of the respondents in delaying the matter. Hence, the petitioner has filed this writ petition for the relief stated above.

7.In view of the above, without going into the merits of the matter, this Court directs the respondents to consider the application of the petitioner dated 19.11.2013 with regard to survey of the lands by affording opportunity to all the necessary parties and pass an appropriate order on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

8.The writ petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(RTI)

/True copy/

Sub Assistant Registrar



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To

1. THE DISTRICT COLLECTOR,
TIRUCHIRAPPALLI.

2. THE SUB COLLECTOR,
LALGUDI, TIRUCHIRAPPALLI DISTRICT.

3. THE TAHSILDAR,
MANACHANALLUR TALUK,
TIRUCHIRAPPALLI DISTRICT.

+1cc to Special Government Pleader Sr NO.49181

+1cc to Mr.R.Devaraj, Advocate SR NO.48681

W.P. (MD) No.15149 of 2015
24.08.2015

rg.26.08.2015 4p/6c.