



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.07.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

Writ Petition.(MD)No.9612 of 2014

S.Navarathinam

... Petitioner

Vs.

1.The District Revenue Officer,
Madurai Collectorate Complex,
Madurai District.

2.The Tahsildar,
Peraiyur Taluk,
Madurai District.

3.The Taluk Surveyor,
Peraiyur Taluk,
Madurai District.

4.The Inspector of Police,
Villoor Police Station,
Madurai District,
Madurai.

5.K.Ramanathan

6.G.Kannan

...Respondents

(R5&R6-impleaded as per order dt.20/08/2014 in MP.1/14)

Prayer : Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Mandamus, praying to direct the fourth respondent to issue police protection fixing a date to survey the lands of the petitioner in Survey Nos.177/1A9 and 177/1A12 of Karaikkeni Village, Peraiyur Taluk, Madurai District on the basis of the petition given by the petitioner dated 24.05.2014.

For Petitioner : Mr.D.Ghandiraj

For R1 to R4 : Mr.M.Murugan
Government Advocate

For Respondent-5 : No Appearance

For Respondent-6 :Mr.T.Vadivelan

**ORDER**

The petitioner has come forward to file this Writ Petition seeking Writ of Mandamus, directing the fourth respondent to issue police protection to fix the survey of the land in Survey Nos.177/1A9 and 177/1A12 situated at Karaikkeni Village, Peraiyur Taluk, Madurai District.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) appearing for R1 and R-2 and there is no appearance for R-3.

3.The learned counsel for the petitioner submitted that the original assignment has been given in favour of, the father of the petitioner namely Samuel and brother of the petitioner namely Nagaiah. The Patta Pass Book in S.No.177/1A9 has been in the name of the father of the petitioner, but the name of the grandfather of the petitioner has been noted as Denial instead of Subba Naidu. Similarly, the Patta Pass Book in S.No.179/1A12 has been in the name of the petitioner's brother Nagaiah, but the father of Nagaiah had also been wrongly noted as Muthu Veera Thevar instead of Samuel. Based upon the same, the petitioner made a request to the District Revenue Officer, Madurai/First respondent for the rectification of the revenue records. By the proceedings of the District Revenue Officer, in Na.Ka.No.1956/2013/G-5 dated 27.12.2013, the said anomaly was rectified. Reliance upon the said proceedings, the petitioner has come forward with this petition.

4. The learned counsel for the petitioner submitted that the order passed by the Revenue Divisional Officer has become final. Though it has been recorded that the private respondents herein are in possession and the said fact alone will not give any right.

5. Per contra the learned counsel appearing for the private respondents submitted that they have not been heard before passing the said order. Even in the said order, findings has been recorded that the private respondents having in possession and doing cultivation for quite number of years. The petitioner can not seek to fix a boundary, especially he has not been in the possession and enjoyment of the property. As there is a cloud over the title, the discretion relief shall not be invoked that too after a long period of time.

6. A perusal of the order passed by the District Revenue Officer would show that the private respondents have not been heard. Even in the said order, the report of Tahsildar has been recorded which prima facie shows the possession of the private respondents by doing cultivation. Therefore basing reliance upon the said order, the petitioner cannot seek relief as there is an inter-se dispute between the parties. Hence this court is not inclined to misuse the discretion of the jurisdiction by allowing this Writ Petition.



7. Accordingly the Writ Petition stands dismissed. However, liberty is given to the petitioner to work out his remedy in the manner known to law, especially basing reliance upon the assignment granted in the proceedings.

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Sd/-

Assistant Registrar(Cr1.side)

/True copy/

Sub Assistant Registrar

PJL

To

1.The District Revenue Officer,
Madurai Collectorate Complex,
Madurai District.

2.The Tahsildar,
Peraiyur Taluk, Madurai District.

3.The Taluk Surveyor,
Peraiyur Taluk, Madurai District.

4.The Inspector of Police,
Villor Police Station, Madurai District, Madurai.

+one cc to Mr.T.Vadivelan, Advocate in SR.No.40665.

+one cc to The Special Government Pleader, SR.No. 41123

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CSL/SK/SAR-I/21/08/2015
3P/7C