

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.4.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.15341 of 2016

and

WMP.No.13375 of 2016

J. Myvanna Kumar

... Petitioner

Vs.

1. The Commissioner,
Jolarpettai Municipality Grade III,
Jolarpettai, Vellore District.

2. The District Collector,
District Collector's Office,
Sathuvachari, Vellore.

3. The Taluk Surveyor,
Taluk Office,
Nattrampalli,
Vellore District.

... Respondents

PRAYER : Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to measure the petitioner's land in S.No.335/1, Kudiyanakuppam Village, Nattrampalli Taluk, Vellore District and demarcate the same in accordance with the revenue records by laying survey stones.

For Petitioner : Mr.R.Subramanian

For Respondents : Mrs. P. Rajalakshmi
Government Advocate

O R D E R

By consent, the Writ Petition is taken up for final hearing at the stage of admission itself.

2. The petitioner has come forward with this Writ Petition seeking for issuance of Mandamus upon the respondents to measure

the petitioner's land in S.No.335/1, Kudiyanakuppam Village, Natrampalli Taluk, Vellore District and demarcate the same in accordance with the revenue records by laying survey stones.

2.(a) Heard the learned counsel appearing for the petitioner and the learned Government Advocate, who took notice for the respondents.

3. It is the case of the petitioner that the property situate in Survey No.335/1, Kudiyanakuppam Village measuring 4.64 acres belonged to his father late Janakirama reddy. After his demise, the said property devolved upon his legal heirs viz., 1. J. Rahinakumar, 2. J. Naveena Kumari, 3. J. Myvanna Kumar, 4. J.Madhava Kumar and 5. J. Mohana Kumari and patta has also been changed in joint names of the sharers. The petitioner is filing this writ petition on behalf of other legal heirs of his father also.

4. On the eastern side of the petitioner's property, the 1st respondent viz., Jolarpettai Municipality has laid temporary mud road and in the said action, the 1st respondent has encroached the land measuring 120 feet x 6 feet from North to South in their land and subsequently on 24.7.2015, they issued a legal notice to the 1st respondent and others informing them that the 1st respondent is attempting to lay permanent road in their land and further it was also stated that adjacent to their land in S.No.63/1, there was one Mangamma Kulam/Ganapathy Kuttai and at the time of forming the road, if the height of the road is raised, then excess rain water will get stagnated in their land, due to which, they will not be able to raise any crops.

5. For that, a reply was sent by the 1st respondent on 11.8.2015 stating that there would be no encroachment by the Municipality in S.No.335/1 and in case of laying proper tar road, appropriate drainage facility will be provided.

6. Since the encroachment made by the 1st respondent was denied, the petitioner's brother Madhava kumar made a representation to the 2nd respondent viz., the District Collector, Sathuvachari, Vellor on 31.8.2015 stating that the land in S.No.335/1 has to be measured and survey stones have to be fixed for demarcating the boundaries and they have paid necessary charges for measurement of their land to the 3rd respondent. The 2nd respondent, through his letter dated 15.9.2015, directed the 3rd respondent to take action on the representation dated 31.8.2015 and also send the action taken report to him. Since there was no response, the petitioner sought information from the 1st respondent through his letter dated 5.2.2016 under RTI Act, for which, the 1st respondent sent a reply on 4.3.2016 stating that the tar road would be

laid only in Survey No.63/3, where the office for the 1st respondent is sought to be constructed and for the public use, temporary mud road has been laid and after the construction of the new office premises, permanent road would be laid. Since the 1st respondent has not furnished proper particulars, the petitioner again made a representation on 9.4.2016 and sought for proper particulars, but so far, no action has been taken. Hence the petitioner has filed the present writ petition.

7. I have heard the submissions made by the learned counsel for petitioner and the learned Government Advocate appearing for the respondents.

8. Considering the submissions made by the learned counsel for petitioner, this Court directs the petitioner to give a fresh representation to the 2nd respondent viz., the District Collector, Sathuvachari, Vellore, requesting for measurement of petitioner's land in S.No.335/1, Kudiyanakuppam Village, Natrampalli Taluk, Vellore District and demarcate the same in accordance with the revenue records by laying survey stones along with a copy of this order within a period of two weeks from the date of receipt of a copy of this order and on such representation, the 2nd respondent is directed to consider the same by conducting enquiry after affording an opportunity of personal hearing to the petitioner as well as to the necessary parties, if any, and pass appropriate orders on merits and in accordance with law within a period of six weeks thereafter.

9. With the above direction, this Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.
msr

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The Commissioner,
Jolarpettai Municipality Grade III,
Jolarpettai, Vellore District.
2. The District Collector,
District Collector's Office,
Sathuvachari, Vellore.

3. The Taluk Surveyor,
Taluk Office,
Nattrampalli,
Vellore District.

+ 1 cc to Mr.R.Subramanian, Advocate Sr 26678

KR/8/6/16

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