

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 02.11.2016
CORAM:
THE HONOURABLE MR. JUSTICE B.RAJENDRAN
W.P.No.33192 of 2016

K.Ramkumar
Rep. by Power Agent
N.Krishnamoorthy

.. Petitioner

Versus

1. The Tahsildar,
Tiruchengode Taluk, Namakkal District.
2. The Commissioner,
Tiruchengode Municipality,
Tiruchengode Taluk, Namakkal District.
3. The Town Surveyor,
Tiruchengode Municipality,
Tiruchengode Taluk, Namakkal District

4. S. Rajamani
(R4 impleaded as per Order dated 02.11.2016
passed in WP No. 33192 of 2016) .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the second and third respondents to fence their ear marked portion of park and road by excluding A, B, C Portion of the entire property of an extent of 1605.50 sq.ft. as per Sketch dated 13.06.2016 in TSLR No.13/1, in Block-10, Ward No.-F, Tiruchengode Village and town, Namakkal District by considering the petitioner's representation dated 22.08.2016 and consequently direct the first respondent to sub-divide the above property and issue the Separate Patta.

For Petitioner : Mr. V. Raghavachari
for M.A.P.Thangavel

For Respondents : Mr. Mr.A.N.Thambidurai,
Spl. Government Pleader for RR1 to 3

Mr. K. Sasindran for R4

ORDER

Heard the learned counsel for the petitioner, Mr.A.N.Thambiduai, learned Special Government Pleader, who accepts notice on behalf of the respondents 1 to 3 as well as the learned counsel for the fourth respondent. With the consent of the counsel on either side, the writ petition is taken up for final disposal.

2. This Writ Petition has been filed with a prayer to direct the second and third respondents to fence their earmarked portion of park and Road by excluding A, B, C Portion of the entire property of an extent of 1605.50 sq.ft. as per Sketch dated 13.06.2016 by considering the representation of the petitioner dated 22.08.2016 and consequently direct the first respondent to effect sub division of the above property and issue separate Patta in the name of the petitioner.

3. Today, when the above writ petition is taken up for hearing, the learned Special Government appearing for the respondents 1 to 3 produced a copy of the proceedings bearing Na.Ka.No.9674/2016/F1 dated 25.10.2016 of the Town Planning Officer cum Special Officer of Thiruchengode Municipality wherein it was stated that the petitioner has executed a gift deed which was registered as document No. 2140 of 1998, in and by which, he has gifted a portion of his land in favour of the Municipality. It is also stated in the said communication dated 25.10.2016 that earlier the petitioner has filed WP No. 8555 of 2016 before this Court praying for a Writ of Mandamus directing the respondents therein to measure the entire extent of 1605.50 square feet in TSLR No.13/1 in Block No.10, Ward F within Thiruchengode Town by considering his representation dated 16.12.2015. The said writ petition was disposed of by this Court on 16.03.2016. Pursuant to the order passed by this Court on 16.03.2016, an inspection was conducted along with the Deputy Inspector of Surveys on 13.08.2016. It is further stated that during the course of such inspection, it was found that the Municipality has fenced a portion of the land belonged to the petitioner. Therefore, it was stated in the communication dated 25.10.2016 that the municipality would remove the fencing that was put up over the portion of the land belonged to the petitioner.

4. The learned counsel for the fourth respondent, who was impleaded as a party respondent, would submit that the fourth respondent has already filed a suit in O.S. No. 172 of 2016

before the District Munsif, Thiruchengode against the Commissioner of Thiruchengode Municipality praying for a decree of mandatory injunction from in any manner altering the physical features of the suit land, which was earmarked as a park by the Municipality. According to the learned counsel for the fourth respondent, the suit is pending.

5. It is evident from the communication dated 25.10.2016 of the Town Planning Officer cum Special Officer of Thiruchengode Municipality that even though the petitioner has gifted certain portion of the land by executing a gift deed in favour of the Municipality, while fencing the lands, the Municipality has fenced the land belonged to the petitioner which was not covered under the gift deed. Therefore, according to the learned Special Government Pleader, the respondents 1 to 3 would remove the fencing put up on the lands belonged to the petitioner. The said statement is recorded. As far as the suit filed by the fourth respondent in O.S. No. 172 of 2016, it is between the Municipality and the fourth respondent and it has got nothing to do with the petitioner. In any event, it is open to the fourth respondent to ventilate his grievance in the suit filed by him and which is pending on the file of the learned District Munsif, Thiruchengode.

6. In the result, this Writ Petition is disposed of by recording the submissions made by the learned Special Government Pleader appearing for the respondents 1 to 3 that the respondents 1 to 3 are ready to remove the fence put up over the land belong to the petitioner and to hand over the excess land to the petitioner. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Tahsildar,
Tiruchengode Taluk, Namakkal District.

2. The Commissioner,
Tiruchengode Municipality,
Tiruchengode Taluk, Namakkal District.

3. The Town Surveyor,
Tiruchengode Municipality,
Tiruchengode Taluk, Namakkal District.

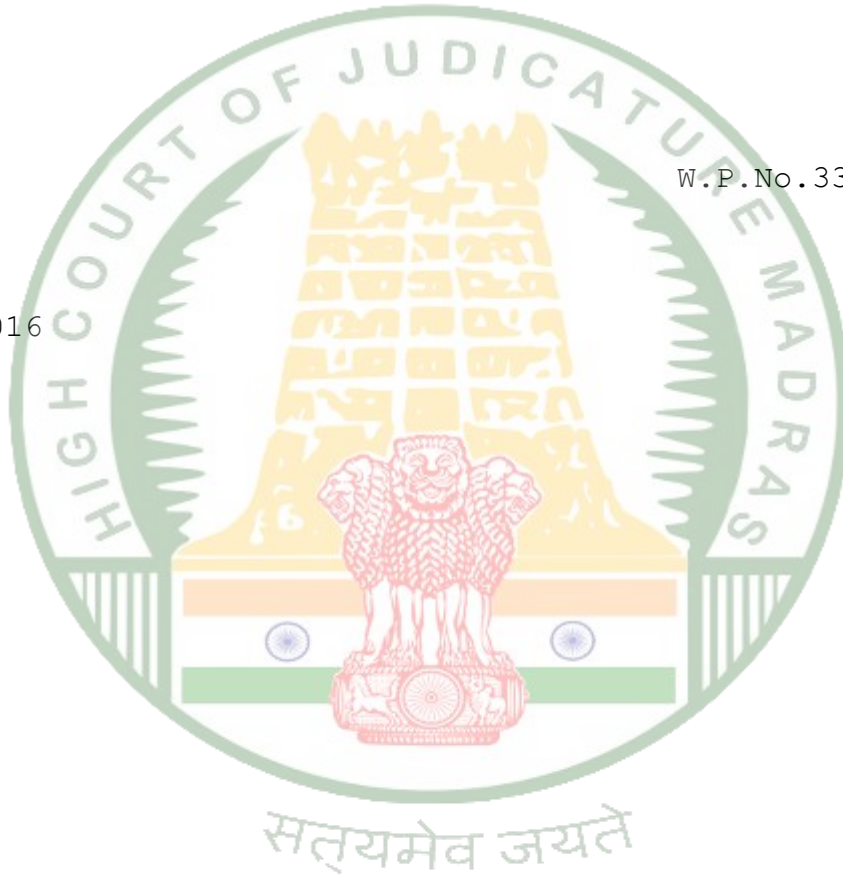
+1 cc to Mr.Ma.Pa.Thangavel Advocate sr 62261
+1 cc to Mr.K.Sasindran Advocate sr 62719
+1 cc to the Government Pleader High Court Madras
sr 62474

W.P.No.33192 of 2016

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