

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.11.2016

CORAM

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

W.P. No.41234 of 2016 and

W.M.P.No.35204 of 2016

Sanjay Tulsyan .. Petitioner

Vs.

1. The Tahsildar,
Office of Tahsildar,
Sollinganallur
Kancheepuram District

2. M/s Chinmaya Mission,
No.2, 13th Avenue,
Harrington Road,
Chetpet, Chennai - 60 031 .. Respondents

PRAYER : Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of 1st respondent culminating in the impugned order dated 06.06.2016 in R.C.No.695/2015/B2 quash the same and direct the 1st respondent to identify, measure and demarcate the subject property situated at No.141, Uthandi Village, Now Tambaram Taluk, Kancheepuram District comprised in R.S.No.2/2A & 3/1 now sub divided as New Survey Nos.2/6B, 2/6C, and 2/6D and 2/12B measuring a total extent of acre 0.38 cents within a time frame.

For Petitioner : Mr.S.Ashok Kumar
For Respondent : Mr.Digvijaypandian
No.1 Additional Government Pleader

O R D E R

This Writ Petition has been filed to issue a Writ of Certiorarified Mandamus by calling for the records of the 1st respondent in respect of the the impugned order dated 06.06.2016 in R.C.No.695/2015/B2, quash the same and direct the 1st

respondent to identify, measure and demarcate the subject property situated at No.141, Uthandi Village, Now Tambaram Taluk, Kancheepuram District comprised in R.S.No.2/2A & 3/1 now sub divided as New Survey Nos.2/6B, 2/6C, 2/6D and 2/12B measuring a total extent of acre 0.38 cents within a time frame.

2. According to the petitioner, he is the absolute owner and in possession and enjoyment of the property in question. He purchased the same through sale deeds and also obtained patta in his favour. On the eastern side of the subject property, the 2nd respondent is holding an extent of one acre of land. Since the subject property was not measured and demarcated, the petitioner submitted his representation dated 26.12.2014 before the Collector, Kancheepuram District to identify, measure and demarcate the subject property, however, the petitioner's representation was not considered. Earlier, the petitioner has filed a Writ Petition No.2793 of 2015 for a direction to the 1st respondent to identify, measure and demarcate the subject property. The said Writ Petition was disposed of by an order dated 05.02.2015 with a direction to the 1st respondent to consider and decide the same on merits etc.,. Thereafter, the 2nd respondent, namely, M/s Chinmaya Mission, filed a Review Application No.30 of 2015 in the above said Writ Petition. Subsequently, this Court by an order dated 13.03.2015, in Review Application, has ordered the 1st respondent to comply with the earlier direction passed by this Court in W.P.No.2793 of 2015, after issuing notice to the writ petitioner and review applicant/2nd respondent. Since no steps were taken by the 1st respondent even after the order passed in review application no.30 of 2015, the petitioner filed the Contempt Petition No.1026 of 2016 before this Court. This Court by an order dated 20.04.2016 closed the Contempt Petition with a direction to the 1st respondent "to pass orders in terms of what has been stated in the counter affidavit and communicate the same to the petitioner etc.,". After several reminders, the 1st respondent passed the present impugned order dated 06.06.2016 in R.C.No.695/2015/B2. As there is a contradiction between the impugned order and the certificate issued by the VAO, Sholinganallur and that the said impugned order has been passed in violation of principles of natural justice, the petitioner has come forward with this Writ Petition.

3. The learned counsel for the 1st respondent submitted that it is purely a civil dispute and appeal remedy is available to the petitioner against the Impugned Order and hence he prays that the Impugned Order passed by the 1st respondent is correct and it does not require any interference at the hands of this Court.

4. Heard the learned counsel on either side and perused the

materials available on record.

5. Further, the learned counsel for the 1st respondent invited the attention of this Court to the Impugned order dated 06.06.2016, wherein it has been clearly stated that the entire extent is 17 cents only and not as claimed in the sale deed and the said 17 cents is also in the possession of 2nd respondent / M/s Chinmaya Mission Trust. Further, the said impugned order clearly states that the petitioner is not having physical possession for the purchase done in his favour.

6. Taking note of the submission of the learned counsel for the 1st respondent and the fact that only 17 cents is available and that too stands in the name of the 2nd respondent and coupled with the further fact that as against the impugned order, appeal remedy is available to the petitioner, I do not find any reason to interfere with the impugned order dated 06.06.2016 and hence this Writ Petition is not maintainable and the same stands dismissed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssd

To

1. The Tahsildar,
Office of Tahsildar,
Sollinganallur
Kancheepuram District

+1cc to Mr.S. Ashok Kumar, Advocate, S.R.No.14358
+1cc to the Government Pleader, S.R.No.69179

cnr(CO)
md(28/12)

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