

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.8587 of 2016

T.Swaminathan

... Petitioner

Vs.

1. The Executive Engineer,
Tamil Nadu Housing Board,
Vellore Housing Board Section,
Sathuvachari,
Vellore - 632 009.

2. The Town Surveyor,
Tiruvannamalai Municipal Buildings,
Tiruvannamalai Municipality,
Tiruvannamalai - 606 601

... Respondents

Writ petition is filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the respondents to consider the petitioner's representation dated 27.10.2015, directing the first respondent to measure the adjacent lands acquired by the first respondent and at the same time i.e. simultaneously direct the second respondent to measure the landed properties of this petitioner in T.S.No.1829/1A 1A to an extent of 1 acre 10,870 sq.ft and in T.S.No.1794/2A to an extent of 1 acre 10870 sq.ft in Ward No.4 in Tiruvannamalai Town and to show the boundaries of this petitioner's land so as to find the encroached area's length and breadth and to issue a map containing such encroached area and a report.

For Petitioner : Mr.S.Vediappan

For respondents: Mr.V.Anandhamoorthy,
for R1

Mrs.P.Rajalakshmi,
for R2

O R D E R

With the consent of both sides, the Writ Petition is taken up for final disposal.

2. The petitioner has come forward with the present Writ of Mandamus directing the respondents to consider the petitioner's representation dated 27.10.2015, directing the first respondent to measure the adjacent lands acquired by the first respondent and simultaneously direct the second respondent to measure the properties of this petitioner in T.S.No.1829/1A 1A to an extent of 1 acre 10,870 sq.ft and in T.S.No.1794/2A to an extent of 1 acre 10870 sq.ft in Ward No.4 in Tiruvannamalai Town and to show the boundaries of this petitioner's land so as to find the encroached area's length and breadth and to issue a map containing such encroached area and a report.

3. The petitioner owns ancestral properties of lands, situated within the Tiruvannamalai Municipal limits in T.S.No.1829/1A 1A to an extent of 1 acre 10,870 sq.ft and in T.S.No.1794/2A to an extent of 1 acre 10870 sq.ft. The said properties were previously acquired by the first respondent in the year 1983 vide G.O.Ms.No.838 dated 22.08.1985. His father late Thirugnanasambantham had filed W.P.No.6748 of 1987 and this Court had ordered to return the properties. Even thereafter, the first respondent did not surrender the land and started to level the land. Hence, petitioner's father filed a Contempt Petition in C.M.P.No.9762 of 1987 in W.P.No.6748 of 1987 and by order of this Court, the Divisional Revenue Officer, Tiruvannamalai had surrendered the possession of the properties vide memo dated 05.11.1990 and since then, this petitioner is in enjoyment of the said lands. The first respondent has acquired the neighbouring land of the petitioner, in which, the first respondent has constructed many houses and sold those houses to many persons. In the year 2010, when this petitioner surveyed his land, he found that in T.S.No.1829/1A 1A approximately to an extent of 7000 sq.ft and in T.S.No.1794/2A an extent of 3000 sq.ft were encroached by the first respondent and constructed houses in that place. Hence, the petitioner requested the second respondent to survey and issue a map containing encroached area, but, the second respondent refused to issue such a map by contending that the entire land including the areas acquired by the first respondent had to be measured jointly by the first respondent's surveyor and the second respondent and then only, such a map containing the encroached area can be find out. Immediately, the petitioner has given a complaint dated 16.07.2010 to the first respondent and thereafter, the petitioner orally many times requested the first respondent to measure the land acquired by the first respondent.

The petitioner has also given a representation dated 18.03.2014 and the same was not considered. Thereafter, the petitioner has again given a representation on 27.10.2015 to the respondents for measuring the properties in order to ascertain the encroachment made by the first respondent. Though the respondents received the representations, they have not considered the representation so far. Hence, he has come forward with the present writ petition.

4. Heard the submissions of learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.

5. Considering the facts and circumstances, this Court directs the first respondent to consider the representation of the petitioner dated 27.10.2015 and pass an appropriate order on merits, within a period of eight weeks from the date of receipt of a copy of this order, after affording opportunity of personal hearing to the petitioner as well as to the necessary parties, if any. It is made clear that this Court has not expressed any opinion with regard to the merits of the claim of the petitioner.

6. The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

mrp

To

1. The Executive Engineer,
Tamil Nadu Housing Board,
Vellore Housing Board Section,
Sathuvachari,
Vellore - 632 009.

2. The Town Surveyor,
Tiruvannamalai Municipal Buildings,
Tiruvannamalai Municipality,
Tiruvannamalai - 606 601

+1cc to Mr.V. Anandhamoorthy, Advocate, S.R.No.15260

+1cc to Mr.S. VEDIAPPAN, Advocate, S.R.No.14699

KJI (CO)

EU(24/03/2016)

W.P.No.8587 of 2016