



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.11.2016

CORAM:

THE HONOURABLE MR. JUSTICE V. BHARATHIDASAN

Writ Petition (MD) No.1148 of 2014

and

M.P. (MD).No.1 of 2014

M. Bose

... Petitioner

Vs.

1. The Tahsildar,
Kamuthi Taluk
Sambakkulam Groups,
Kottaimedu Post,
Kamuthi Taluk,
Ramnad District.

2. The Village Administrative Officer,
Sambakkulam Groups,
Kottaimedu Post,
Kamuthi Taluk,
Ramnad District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus restraining the respondents from surveying the property in survey number 5/1, Sambakkulam Village, Kamuthi Taluk, Ramnad District till considering and passing orders on the representation of the petitioner dated 13.01.2014 within stipulated time as may be fixed by this Honourable Court.

For Petitioner : Mr. T. A. Ebenezer

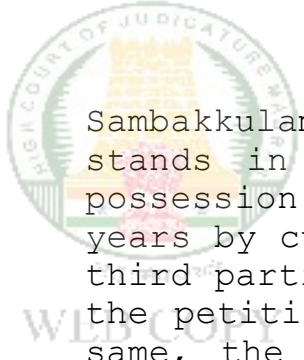
For Respondents : Mr. R. Anandharaj

Govt. Advocate

ORDER

The present writ petition has been filed for a direction, restraining the respondents from surveying the property in survey number 5/1, Sambakkulam Village, Kamuthi Taluk, Ramnad District till considering and passing orders on the representation of the petitioner dated 13.01.2014 within a time as may be fixed by this Honourable Court.

2. According to the petitioner, he is in possession and enjoyment of the property to an extent of 2.5 acres in Sy.No.5/1,



Sambakkulam Village, Kamuthi Taluk, Ramnad District and patta stands in the name of one Chinnaiah Nadar. His family is in possession and enjoyment of the said property for more than 100 years by cultivating the said property. While that being so, some third parties filed a petition for surveying the said property and the petitioner has raised his objection. Without considering the same, the respondents are taking steps to survey the property. Hence, he has filed the present writ petition seeking a direction to the first respondent to consider his objection and restraining the respondents from surveying the property.

3. Admittedly, the patta stands in the name of one Chinnaiah Nadar and according to the petitioner, he is in possession of the same. If at all the petitioner claims any right over the property, he has to approach the competent Civil Court to protect his possession. But, he cannot ask for a direction for preventing the authorities from surveying the property.

4. The learned counsel for the petitioner would submit that the the pattadhar or his legal heirs are only having right to seek for survey of the property, whereas the third parties had no right to seek for measuring the property.

4. In view of the above facts and circumstances of the case, if any third party other than Chinnaiah Nadar or his legal heirs sought to measure the property, the Tahsildar/first respondent is directed to consider the petitioner's objection and pass suitable orders.

5. With the above direction, this writ petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Crl)

/True copy/

Sub Assistant RegistrarTo

1. The Tahsildar, Kamuthi Taluk
Sambakkulam Groups, Kottaimedu Post, Kamuthi Taluk,
Ramnad District.

2. The Village Administrative Officer,
Sambakkulam Groups, Kottaimedu Post, Kamuthi Taluk,
Ramnad District.

+1 cc to M/s.T.A.Ebenezer, Advocate in SR.No.67514

W.P(MD)No.1148 of 2014
09.11.2016

VS