



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.12.2016

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE K.RAVICHANDRA BAABU

W.P(MD)No. 379 of 2015

and M.P. (MD)No. 1 of 2015

R. Kannan

.. Petitioner

vs.

1. The District Surveyor,
Theni District, Theni.

2. The Thasildar,
Theni District, Theni.

3. The Taluk Surveyor,
Theni District.

4. Mrs. Kaliammal

5. S Chinnathai

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of Mandamus call for the records pertaining to the impugned order in FL-445/14 dated 01.12.2014 on the file of the Respondent No.2 and quash the same as illegal and consequently to direct the Respondents No.1 to 3 to survey the petitioner s lands in Survey No. 77/3 situated at Thadicherry Village, Theni Taluk, Theni District and mark the boundaries and provide the report to the Petitioner within the time stipulated by this Honourable Court.

For Petitioner : Mr. T. Lajapathi Roy

For Respondents : Mr. C. Selvaraj for R1 to R3
Special Government Pleader

O R D E R

This writ petition is filed challenging the order of the second respondent rejecting the petitioner's request for survey of land purchased by him under a Sale Deed dated 22.07.2010 executed by one Perumal, on the ground that civil suit is pending between the parties before the Sub Court, Theni in O.S.No.341 of 2014.



3. The learned counsel for the petitioner submitted that pendency of the civil suit will not be a bar for the revenue authorities to survey the land and Section 10(1) of the Land Survey and Boundaries Act, 1923 contemplates that Survey Officer can survey and determine boundaries. Perusal of the said Section would show that only when there is dispute with regard to the boundaries the Survey Officer could make such enquiry and determine the boundaries.

4. In the present case, it is seen that the said civil suit is filed challenging the very sale executed by the said Perumal in favour of the petitioner and for other relief of partition. Therefore, when the very title is under dispute and seized by the civil court, the petitioner is not justified in seeking for survey of land during the pendency of the civil proceedings.

5 Therefore, I find no reason to interfere with the order passed by the second respondent as I find that the above said provision relied on by the petitioner will also not come to his rescue in any manner. Accordingly, this writ petition is dismissed. No costs. Consequently, connected M.P(MD) No.1 of 2015 is closed. Needless to say that the petitioner can revive his request depending upon the outcome of the civil suit pending between the parties where the petitioner is admittedly the party defendant.

Sd/-

Deputy Registrar

/True Copy/

Sub Assistant Registrar

CM

To,

1. The District Surveyor, Theni District, Theni.
2. The Thasildar, Theni District, Theni.
3. The Taluk Surveyor, Theni District.

+1cc to Mr.T.Lajapathi Roy Advocate Sr.No. 79957

+1cc to Spl.Government Pleader Sr.No. 79847

JAM/27.12.16/RR/ 2p-6c