



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 19.07.2016

CORAM

THE HONOURABLE MR.JUSTICE M.VENUGOPAL

W.P (MD) No.12624 of 2016

Karthigaijothi

...Petitioner

Vs

1.The Tahsildar,
Thirupparankundram Taluk,
Madurai District.

2.The Surveyor,
Thirupparankundram Taluk,
Madurai District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned order passed by the 1st Respondent in Na.Ka.No.1541/2016, dated 25.05.2016 (but signed on 26.05.2016) quash the same.

For Petitioner : Mr.R.Sundar

For Respondents : Mr.S.Kumar

Addl.Govt.Pleader

ORDER

Heard both sides.

2. By consent, the main Writ Petition itself is taken up for final disposal.

3. No counter is filed on behalf of the Respondents 1 and 2.

4. According to the Petitioner, originally, the property in Survey No.126/5A4 belonged to one Pechiyammal, by means of registered Sale Deed. As a matter of fact, on 03.06.1963, one Seethalakshmi Ammal purchased the aforesaid property from Pechiyammal, by means of Sale Deed, bearing Document No.3468/1963. From the day one, she was in possession and enjoyment of the same by mutating the Revenue Records in her favour.

5. When that be the facts situation, in the year 1998, the said Seethalakshmi Ammal sold the aforesaid property to one Arumugam by receiving the sale consideration amount of Rs.44,000/-. To that effect, they have registered a Sale Deed, bearing Document No.7142/1998, dated 09.12.1998. After purchasing the property, the said Arumugam was in enjoyment of the said property without any hindrance and encumbrance.



6. In the meanwhile, on 16.12.2015, the Petitioner purchased the property in Survey No.126/5A4 from the said Arumugam, by means of registered Sale Deed, bearing Document No.8177 of 2015, thereafter, she has been enjoying the property. Soon after registration of the document, she approached the Revenue Officials, for mutation of the records pertaining to the Survey No.126/5A4. In fact, the property in Survey No.126/5A4 and some other properties in Survey Nos.110, 126/5 and 126 are relating to the documents registered in the years 1963, 1993, 1998 and 2015. The above said properties are located at the same Taluk and therefore, she is unable to find out the correct boundaries to Survey No.126/5A4. On several occasions, she made an endeavour to change the revenue records in her favour and also attempted to pick her land, but failed in such attempts. As such, she approached the First Respondent / Tahsildar, Thirupparankundram Taluk, Madurai District, for measurement of her land, comprised in Survey No.126/5A4 measuring to an extent of 2207 - 1/2 Sq.ft., situated at Thirupparankundram Taluk, Madurai District. After receiving his representations, the First Respondent / Tahsildar, Thirupparankundram Taluk, Madurai District, had orally instructed her to pay the prescribed fee for measurement of her lands and accordingly, on 03.03.2016, she paid fee for a sum of Rs.80/-. Even after endorsing her fee, the First Respondent refused to measure and demarcate her land. Hence, she has filed the present Writ Petition.

7. Considering the fact that the Petitioner had purchased the property in Survey No.126/5A4 from Arumugam, by means of Sale Deed, bearing Document No. 8177 / 2015 and this Court taking note of the fact that the Petitioner had earlier submitted her representation on 03.03.2016 and subsequently submitted another representation on 04.07.2016, addressed to the First Respondent / Tahsildar, Thirupparankundram Taluk, Madurai District, this Court is of the considered view that the impugned order, dated 25.05.2016 (but signed on 26.05.2016), passed by the First Respondent/Tahsildar, Thirupparankundram Taluk, Madurai District, by means of Memo in Na.Ka.No.1541/2016, assigning reasons to the effect that in respect of Survey No.126/5A4 at Perungudi Village, Thirupparankundram Circle, the patta was not changed in the name of the Petitioner and as such, there is no patta standing in the name of the Petitioner, the boundaries cannot be identified and also the subdivision sought for in the Petition cannot be acceded to are not quite in consonance with the well established legal principles/settled legal position. As such, this Court interferes with the impugned order, dated 25.05.2016 (but signed on 26.05.2016), passed by the First Respondent/Tahsildar, Thirupparankundram Taluk, Madurai District, and sets aside the same. Consequently, the Writ Petition succeeds.



8. In the result, the Writ Petition is allowed leaving the parties to bear their own costs. Consequently, the impugned order, dated 25.05.2016 (but signed on 26.05.2016), passed by the First Respondent/Tahsildar, Thirupparankundram Taluk, Madurai District, is set aside by this Court for the reasons assigned in the Writ Petition. Before parting with the case, this Court directs the First Respondent/Tahsildar, Thirupparankundram Taluk, Madurai District, to consider the two representations of the Petitioner, dated 03.03.2016 and 04.07.2016 afresh, with a fair, open mind and to pass dispassionate orders in the said representations, by taking note of the relief sought for by the Petitioner in a practical, pragmatic and realistic fashion, within a period of four weeks from the date of receipt of a copy of this order.

9. The Petitioner is also directed to lend her assistance and co-operate to the First Respondent/Tahsildar, Thirupparankundram Taluk, Madurai District, so as to enable him to dispose of her representations, within the time determined by this Court. In case, if the First Respondent/Tahsildar, Thirupparankundram Taluk, Madurai District, is in requirement of any certified copy of the document or any other relevant records, as the case may be, then, it is for the First Respondent/Tahsildar, Thirupparankundram Taluk, Madurai District, to issue necessary Memo/Notice to the Petitioner requiring her to submit such documents to the First Respondent and in such an event, it is the duty of the Petitioner to submit the same so as to avoid any delay in regard to the decision/disposal of the representations to be made by the First Respondent, within the time fixed by this Court.

10. With the aforesaid observations and directions, the Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar(CS)

Madurai Bench of Madras High Court,
Madurai-23.

To

1. The Tahsildar, Thirupparankundram Taluk, Madurai District.

2. The Surveyor, Thirupparankundram Taluk, Madurai District.

+1cc to M/s.R.Sundar, Advocate in SR.37703

+1cc to the Special Government Pleader, in SR.37914

W.P(MD)No.12624 of 2016

19.07.2016

mpk

PBK/NGM-MP/SAR-III

20/07/2016 ::3P-5C:: (IT)