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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:17.08.2016

CORAM

THE HONOURABLE MR.JUSTICE M.VENUGOPAL

Writ Petition (MD). No.15067 of 2016

1.Durga Parameshwari
2.Durgadevi

...Petitioners

Vs.

1. The District Collector,
Theni District, Theni.
2. The Tahsildar,
Theni, Theni District.
3. The Assistant Director of Land Survey,
Theni, Theni District.
4. The Taluk Surveyor,
Theni Taluk Office,
Theni.
5. The Town Surveyor,
Theni Municipal Office,
Theni District.

...Respondents

Prayer:-Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing to the respondents to survey, measure and demarcate the petitioners' land in accordance with their title deed and provide appropriate subdivisions and consequently issue Patta in petitioners' names in respect of an extent of 10 cents of land forming part of larger extent of 2.76 Acres in S.No.615/2 Karattukattupulam, Alli Nagaram Village, Theni Taluk and District.

For Petitioner
For Respondents

:Mr.N.Dilip Kumar
:Mr.K.Guru
Additional Govt. Pleader

O R D E R

Heard both sides. By consent, the main writ petition itself is taken up for final disposal.

2.No counter is filed on behalf of the respondents.



3. The grievance the petitioners is that they had applied before the Second Respondent on 13.05.2015 seeking sub-division and issuance of separate patta in respect of their 10 cents in Sy.No.615/2, Karattukattupulam, Alli Nagaram Village, Theni Taluk and District. Also another representation dated 30.12.2015 was submitted by them before the First Respondent seeking issuance of patta, based on sub-division. It is to be noted that they paid the necessary prescribed fee for survey and sub-division through challan dated 31.12.2014. As a matter of fact, the Third Respondent/Assistant Director of Land Survey, Theni, Theni District had sent a communication dated 18.06.2015 mentioning that sub-divisions were not made in the Town Survey Records on the basis of the Sale Deeds and hence, they could not proceed for the present. Thereafter, their applications were not acted upon and therefore, they submitted another representation addressed to the First Respondent/District Collector, Theni District on 28.10.2015, which was forwarded by the First Respondent/District Collector, Theni District to the Third Respondent/Assistant Director of Land Survey, Theni, Theni District, on 04.11.2015 for necessary action. In fact, the Third Respondent/Assistant Director of Land Survey, Theni, Theni District, had forwarded the said application to the Second Respondent/Tahsildar, Theni, Theni District, for necessary action through proceedings dated 29.10.2015 (but signed on 16.11.2015).

4. It comes to be known that the petitioners sent another representation on 30.12.2015, to the Second Respondent (with a copy marked to the 4th and 5th Respondents) praying to survey, measure and demarcate their properties in accordance with the Settlement Deed and make necessary sub-divisions. The 2nd and 4th Respondents had received the representation and the 5th Respondent had returned the same with an endorsement 'Unclaimed'.

5. The real grievance of the petitioners is that a duty is cast upon the Survey Officials to act upon the request, in the light of the statutory provisions contained in the Tamil Nadu Survey and Boundaries Act and also under Tamil Nadu District Municipalities Act. Hence, the petitioners have filed the present writ petition.

6. At this stage, the Learned Government Advocate, appearing for the Respondent Nos.1 to 5 fairly submits that if a time limit is granted by this Court to the Respondents, they would survey, measure and demarcate the petitioners' land with reference to their title deed etc.,

<https://hcservices.ecourts.gov.in/HCServices/> Considering the fact that the request made on behalf of the Respondents 1 to 5 before this Court, as aforesaid, is quite genuine and reasonable one, at this stage, this Court,



without expressing any opinion on the merits of the matter one way or other, simpliciter, in the interest of Justice and Fair Play, directs the Fourth and Fifth Respondents to survey, measure and demarcate the petitioners' land with reference to their title deed etc., within a period of six weeks from the date of receipt of copy of this order. It is open to the 4th and 5th Respondents to call for a copy of relevant document/record from the possession of the petitioners, by means of issuing of show-cause notice/memo and on receipt of the memo, it is incumbent on the part of the petitioners to comply with the request made by the 4th and 5th Respondents in this regard without any haziness or hesitation whatsoever. Soon after receipt of a copy of relevant document/record, the Fourth and Fifth Respondents are to act diligently, swiftly and with god speed manner in the subject matter in issue and to do the needful to and in favour of the petitioners, within the time determined by this Court, as stated supra.

8. Insofar as the relief of issuance of patta is concerned, it is open to the petitioners to seek appropriate remedy before the competent authority in terms of Tamil Nadu Patta Passbook Act, 1983 and the Rules, 1987 made thereunder.

9. With the aforesaid observation(s) and direction(s), the writ petition is disposed of. No costs.

Sd/
Assistant Registrar(CS-II)

/TRUE COPY/

Sub Assistant Registrar

To

1. The District Collector,
Theni District, Theni.
2. The Tahsildar,
Theni, Theni District.
3. The Assistant Director of Land Survey,
Theni, Theni District.
4. The Taluk Surveyor,
Theni Taluk Office,
Theni.
5. The Town Surveyor,
Theni Municipal Office,
Theni District.

+1cc to Special Government Pleader in SR.No. 45350

+1cc to Mr.N.Dilip Kumar, Advocate Sr.No.45451

vs

SD/SK-SKN/24-08-2016/3P-8C/

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