

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

WRIT PETITION No.4609 of 2017

Minor D.Kaniska
rep. by her Natural Guardian,
S.K.Thinagaran,
S/o.S.K.Kuppusamy,
23-A, Ebinezer Colony,
Sankari Post - 637 301,
Salem District.

... Petitioner

vs.

1. The District Collector,
Salem District, Salem.
2. The Revenue Divisional Officer,
Sankari Taluk, Sankari,
Salem District.
3. The Tahsildar,
Sankari Taluk, Sankari,
Salem District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus, directing the 3rd respondent to survey and demark the property of the petitioner's granddaughter Minor D.Kaniska comprised in S.No.230/3, subsequently subdivided as S.Nos.230/3A 3A and 230/3A3D admeasuring 1 Acre situated at Sankari Village, Sankari Taluk, Salem District, bounded on the East by way to Kozhikal Natham, West by Kollangadu, South by Pattakkara Muthammal land, North by Senkili land and Kaiitteri from the total extent of 2.63 1/2 acres land comprised in S.No.230/3 subsequently subdivided as S.Nos.230/3A3A and 230/3A3D situated at Sankari Village, Sankari Taluk, Salem District.

For Petitioner : Mr.S.Ajikumar
For Respondents : Mr.R.S.Selvam,
Government Advocate

O R D E R

The minor petitioner represented by her grandfather has come up with this Writ Petition seeking a direction to the 3rd respondent to survey and demark the property comprised in S.No.230/3, subsequently subdivided as S.Nos.230/3A 3A and 230/3A3D admeasuring 1 Acre situated at Sankari Village, Sankari Taluk, Salem District, bounded on the East by way to Kozhikal Natham, West by Kollangadu, South by Pattakkara Muthammal land, North by Senkili land and Kaiitteri from the total extent of 2.63 1/2 acres land comprised in the said Survey Number.

2. According to the natural guardian of the minor petitioner, he submitted an application to the 3rd respondent on 01.09.2015 for surveying and de-marking the subject land as per the Will and as per the parent documents. On instructions from the 3rd respondent, the petitioner submitted a proper application to the 3rd respondent on 01.09.2015. The grievance of the petitioner is that in the total extent of the subject land, five persons have obtained patta illegally without any title over the property. But, the 3rd respondent refused to survey and demark the minor petitioner's land on the ground that a suit is pending. It is the case of the petitioner that the suit is filed only for declaration to declare the patta issued illegally to third parties and the order of issuance of Patta as null and void and that there is absolutely no legal impediment to the 3rd respondent to survey and demark the minor petitioner's land. In this regard, the petitioner finally sent a representation to the respondents on 20.12.2016. As no reply is forthcoming, the petitioner is before this Court.

3. Heard the learned counsel on either side and perused the material documents available on record.

4. Learned counsel for the petitioner made it very clear that the suit filed by the petitioner's paternal Uncle in O.S.No.12 of 2016 before the Sub Court, Sankari, has nothing to do with the subject property and that the petitioner's claim is only to measure the subject property and not the suit schedule property.

5. In such view of the matter, without expressing any opinion on the merits of the case, this Court directs the 3rd respondent to consider the petitioner's application 01.09.2015 seeking to survey and demark the subject property, on merits and in accordance with law and pass appropriate orders, within a period of four months from the date of receipt of a copy of this order, after affording an opportunity of hearing to the parties.

This Writ Petition is disposed of with the above direction.
No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To:

1. The District Collector,
Salem District, Salem.
2. The Revenue Divisional Officer,
Sankari Taluk, Sankari,
Salem District.
3. The Tahsildar,
Sankari Taluk, Sankari,
Salem District.

+1cc to the Government Pleader, S.R.No.12168

GJII(CO)
md(28/02/2017)

W.P.No.4609 of 2017

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