



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.12.2017

CORAM:

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THE HONOURABLE MR.JUSTICE R.MAHADEVANW.P(MD) No.21990 of 2017 and
W.M.P. (MD) No.18301 of 2017

I.Ganesan

... Petitioner

-vs-

1. The Thasildar,
Madurai South Taluk,
Madurai District.
2. The Head Surveyor,
Madurai South Taluk,
Madurai District.
3. The Firka Surveyor,
Avaniyapuram Sub Division,
Madurai South Taluk,
Madurai District.

4. The Village Administrative Officer,
Anupanadi, Madurai District.
5. S.Balakrishnan

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 1st respondent to survey the land in the presence of 2nd respondent to the pending survey in FL/258/17 dated 02.12.2017 on file of 1st respondent pertaining to the property having patta No.79 in Survey No.195/7D situated at Ponnupillai Thoppu, Anupanadi, Madurai District and consequently direct the 5th respondent to obey the boundaries ear marked by the 2nd respondent.

For Petitioner	: Mr.J.Vijayaraja
For R1 to R4	: Mr.T.S.Mohamed Mohideen Addl. Govt. Pleader
For R5	: Mr.H.Arumugam

O R D E R

This writ petition has been filed, seeking to direct the 1st respondent to survey the land in the presence of the 2nd respondent, pending in FL/258/17 dated 02.12.2017 on file of 1st respondent pertaining to the property, having Patta No.79 in Survey No.195/7D situated at Ponnupillai Thoppu, Anupanadi, Madurai District and consequently direct the 5th respondent to obey the boundaries ear marked by the 2nd respondent.



2. Mr.T.S.Mohamed Mohideen, learned Additional Government Pleader takes notice for the respondents 1 to 4 and Mr.H.Arumugam, learned counsel for R5. By consent, the writ petition is taken up for final disposal.

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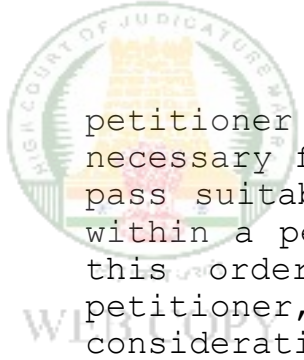
3. The case of the petitioner is that the petitioner, alleging that the 5th respondent is attempting to encroach upon his property in high-handed manner, submitted an application on 07.11.2017 for measurement of the property on payment of necessary fee, followed by a representation dated 26.11.2017, seeking to carry out the same in the presence of the 2nd respondent. Since there was no action taken on the representation, the petitioner is before this Court with the above prayer.

4. At this juncture, the learned counsel appearing for the petitioner would submit that it would suffice, if the respondents 2 & 3 are directed to conduct survey of the property in the presence of the petitioner and the 5th respondent. The learned counsel appearing for R5 has no objection for the same.

5. This Court, in order to ascertain the exact position, had appointed an Advocate Commissioner with a direction to him to be present at the time of survey by the Local Surveyor and to file a report to this Court. The Advocate Commissioner has filed a report dated 06.08.2017 before this Court, wherein in Paragraph No.7 of the said report, it is stated as under:

"7. I have submitted that as per the revenue records there is no measurement deviation availed at the S.No.195/7D but the Northern side portion measurement has been runs across 5th respondent construction for 2 feet level and hence the petitioner counsel is insisted us to measure the same. The revenue authorities said that if any encroachment arose between the party they should relegate remedy before concern civil court, the revenue authorities would not be given any relief to that effect. Hence myself and the revenue authorities were measured the property on 2.12.2017 and as per the revenue records the petitioner and his brother is enjoying the same, I found that there is boundary dispute on northern side to southern side between the writ petitioner and 5th respondent is existence. The 5th respondent is constructing a house on the Survey Number 195/7C under the government scheme. I have taken several photograph to that effect and the said photograph is annexed herewith."

6. Considering the facts and circumstances of the case and also taking into account the limited scope of the relief sought for by the petitioner, this Court, without expressing any opinion on the merits of the matter, directs the respondents 2 & 3 to survey the property in question on the basis of the representations of the petitioner dated 07.11.2017 and 26.11.2017 in the presence of the



petitioner and the fifth respondent, of course, on payment of necessary fee by the petitioner, if already not paid and thereafter, pass suitable orders thereon on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order, after affording an opportunity of hearing to the petitioner, R5 and other interested parties, if any, and also upon consideration of the documents to be produced by the respective parties.

7. With the above direction, this petition is disposed of. No costs.

Sd/-
Assistant Registrar (AS)

/True Copy/

Sub-Assistant Registrar

To:

1. The Thasildar,
Madurai South Taluk,
Madurai District.
2. The Head Surveyor,
Madurai South Taluk,
Madurai District.
3. The Firka Surveyor,
Avaniyapuram Sub Division,
Madurai South Taluk,
Madurai District.
4. The Village Administrative Officer
Anupanadi,
Madurai District.

+One cc to The Special Government Pleader, SR.No.91808
+One cc to Mr.H.Arumugam, Advocate, SR.No.91333
+One cc to M/s.J.Vijayaraja, Advocate, SR.No.91186

ar
RL/8C/3P/JC/SAR1/22/12/2017

W.P (MD) No.21990 of 2017

06/12/2017