



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD)No.21548 of 2016

P.Luke Jeyakumar

... Petitioner

Vs.

1.The Tahsildar,
Senkottai Taluk,
Tirunelveli District.

2.Arunachalam

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the first respondent in his proceedings in O.Mu.Aa.2.FLA.253/2016 dated 23.09.2016 and quash the same as illegal and consequently direct the first respondent to survey and fix boundaries in survey No.177, 181/2B1, situated at Kanakkapillai Valasai village, Senkottai Taluk, Tirunelveli District.

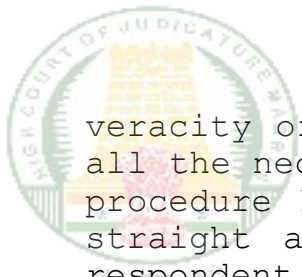
For Petitioner	: Mr.J.Jeyakumaran
For Respondent No.1	: Mr.J.Gunaseelan Muthiah, Government Advocate.
For Respondent No.2	: Mr.V.Om Prakash

O R D E R

This writ petition has been filed, seeking to quash the impugned order in O.Mu.Aa.2.FLA.253/2016 dated 23.09.2016, passed by the first respondent, by which, the petitioner's request to survey his land came to be rejected.

2. According to the petitioner, the property in question belongs to him and as such, he has submitted an application dated 24.08.2016 for measurement and survey of the property. But the first respondent did not adhere to his request and rejected his application, citing the objection letter given by the second respondent. Therefore, aggrieved by the same, the petitioner is before this Court with the above prayer.

3. It is the specific contention of the learned counsel for the petitioner that when there is a rival claim over the property, it is the bounden duty of the authorities to enquire into the



veracity of the claim and thereafter, take a thereon, after hearing all the necessary parties. But, in the present case on hand, no such procedure has been followed and the request of the petitioner was straight away rejected merely on the objection raised by the 2nd respondent, without even casting any notice to the petitioner.

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4. Heard the learned Counsel on either side.

5. It is seen that the impugned order has been passed pursuant to the objection raised by the second respondent. It is pertinent to mention herein that the authority concerned has to survey the land based on the documents available on record and the first respondent cannot refuse to survey the land merely based on the objection of the second respondent. Therefore, this Court is of the view that the impugned order is liable to be set aside on this sole ground.

6. Accordingly, the writ petition is allowed and the impugned order is set aside. The matter is remitted to the first respondent for fresh consideration, who, in turn is directed to verify all the material documents available on record and thereafter, take a decision with regard to survey of the property in question, based on the representation of the petitioner, on payment of necessary charges by the petitioner, if not already paid, within a period of eight weeks from the date of receipt of a copy of this order after affording an opportunity of hearing to the petitioner, the second respondent and other interested parties, if any. However, it is made clear that in the event of the second respondent obstructing to survey the land, it is for the first respondent to seek necessary Police protection for completion of survey. No costs.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

The Tahsildar,
Senkottai Taluk,
Tirunelveli District.

+1cc to Mr.J.JEYAKUMARAN Advocate in SR. No. 86975

+1cc to THE SPECIAL GOVERNMENT PLEADER in SR. No. 87198

RM

JS/SV.MMS/SAR.4/29.11.2017/2P-4C

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