



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.02.2017

CORAM

THE HONOURABLE MR. JUSTICE K. RAVICHANDRABAABU

W.P. (MD) No. 22773 of 2016

and

WMP (MD) No. 16283 of 2016

WEB COPY

The Malankara Orthodoz Syrian Church.

Represented through its Manager

Fr. Sleebea John,

S/o. K. John,

Malankara Orthodox Church Property,

Ambalam Post, Tirunelveli District - 627 354

... Petitioner

Vs.

1. The Tahsildar,
Nanguneri Taluk,
Tirunelveli District.

2. The Firka Surveyor,
O/o. Tahsildar, Nanguneri Taluk,
Tirunelveli District.

3. S. Sahadevan,

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the proceedings of the Impugned Order in O.Mu.FLA.287/2016 dated 28.09.2016 on the file of the 1st Respondent and quash the same and further directing the Respondents 1 and 2 to conduct the survey in Survey Numbers 519/1 519/2. 520/1A Ariyakulam Village, Ambalam Post, Nanguneri Taluk. Tirunelveli District and demarcate the four boundaries.

For Petitioner : Mr. I. Robert Chandrakumar

For Respondents : Mr. T. S. Mohammed Mohideen

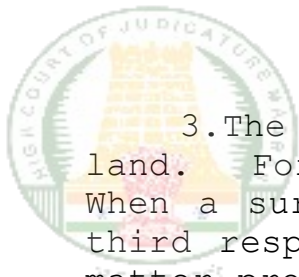
Addl. Government Pleader for R1 & R2

Mr. A. Anandan for R3

ORDER

The petitioner is aggrieved against the order of the first respondent, dated 28.09.2016, wherein the request of the petitioner for survey of the land was refused on the reason that the third respondent herein objected to the same by contending that he along with his family is in possession and enjoyment of the property for more than 25 years.

2. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents 1 and 2 and the learned counsel appearing for the third respondent.



3.The petitioner church wanted to survey of the subject matter land. For such purpose, they approached the revenue officials. When a survey was sought to be conducted, it was opposed by the third respondent stating that he is in possession of the subject matter property for more than 25 years and therefore, the revenue officials are not entitled to survey the same at the instance of the petitioner. Thus, it is evident that there is a dispute with regard to the possession of the property between the petitioner and the third respondent. When such being the dispute, admittedly a title dispute over the suit property including its possession, the revenue officials, at this stage, cannot be directed to survey the property, unless either of the parties approaches civil court and establishes their right in a manner known to law. Without doing so, the petitioner is not justified in challenging the impugned proceedings.

4.Accordingly, I find no merits to interfere with the order passed by the first respondent. However, it is open to the petitioner to establish their right and title and also possession before the competent civil court by filing appropriate suit against the third respondent. If any suit is filed, the same shall be considered on its own merits and in accordance with law.

5.With the above observations, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AE)

/True copy/

Sub Assistant Registrar

To

1.The Tahsildar,
Nanguneri Taluk,
Tirunelveli District.

2.The Firka Surveyor,
O/o.Tahsildar, Nanguneri Taluk,
Tirunelveli District.

+1cc to Mr.A.Anandan, Advocate, SR.No:6955

+1cc to Spl. Govt. Pleader, SR.No:7242

skn

AE/CM MSA/20.02.2017/2P/5C

W.P. (MD) No.22773 of 2016
and

WMP (MD) No.16283 of 2016
08.02.2017