



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE **T.S.SIVAGNANAM**
AND
THE HONOURABLE MR.JUSTICE **P.VELMURUGAN**

W.A. [MD] .No.403 of 2017
and
C.M.P. [MD] .No.3653 of 2017

Arulmigu Eddadi Iyyanar,
Temple represented through
Its Managing Trustee,
West street, Madakulam,
Madurai.

: Appellant

Vs.

1.P.sathiyamoorthy,
2.The Thasildhar,
Land Survey Department,
Thiruparankundram,
Madurai.

: Respondents

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 23.12.2016 made in W.P.(MD).No.24823 of 2016, on the file of this Court.

For Appellant : Mr.R.G.Shangar Ganesh
For Respondent No.1 : Mr.S.Muthalraj
For Respondent No.2 : Mr.S.Chandrasekar,
Government Advocate.

JUDGMENT

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

Heard Mr.R.G.Shangar Ganesh, learned counsel appearing for the appellant, Mr.S.Muthalraj, learned counsel appearing for the first respondent and Mr.S.Chandrasekar, learned Government Advocate appearing for the second respondent. By consent, the Writ Appeal is taken up for final disposal at the stage of admission itself.

2. The Writ Appeal is directed as against the order dated 23.12.2016 made in W.P.(MD)No.24823 of 2016. The learned counsel appearing for the first respondent/writ petitioner submitted that



already survey has been conducted. The appellant has serious objection to the survey being conducted on the ground that the first respondent/writ petitioner had failed to disclose the fact that he had filed O.S.No.1366 of 2005, on the file of the learned Principal District Munsif, Madurai, against the father of the first respondent/writ petitioner in respect of the property in survey No.431/1 and apart from that, there is another suit in O.S.No.760 of 2005, on the file of the learned Principal District Munsif, Madurai and both the suits were tried together and the suit filed by the first respondent/writ petitioner in O.S.No.1366 of 2005 was dismissed and the suit filed by the appellant herein was decreed. Further, the first respondent ought to have disclosed the fact that A.S.No.34 of 2010 filed by the first respondent's father was dismissed for default on 28.10.2014 and no steps have been taken to restore the suit. The first respondent/writ petitioner also ought to have disclosed that during the pendency of the suit, an Advocate Commissioner was appointed to inspect property and after inspection, the Advocate Commissioner submitted a report before the Court below and based on the same, the first respondent/Writ petitioner has sought for a direction upon the second respondent to measure the property.

3. In the light of the fact that the direction issued by the Writ Court has worked itself out and the property has been measured and in the light of the objection raised by the appellant herein, we make it clear that if the second respondent, namely, the Tashildar, Land Survey Department, Thiruparankundram, Madurai, proposes to act in furtereance of the survey report, he cannot do so, unless and until he issues notice to the appellant as well as the first respondent herein, by affording them adequate opportunity to put forth their plea.

4. With the above observation, the Writ Appeal is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Writs)

/True Copy/

Sub Assistant Registrar

To
The Thasildhar,
Land Survey Department,
Thiruparankundram,
Madurai.

Nb

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JUDGMENT MADE IN
W.A. [MD] .No.403 of 2017
12.04.2017