

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2018

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

Writ Petition No.27008 of 2017

M.Ganesan

... Petitioner

vs.

1.The District Collector,
Salem District.

2.The Revenue Divisional Officer,
Attur Revenue Division,
Salem District.

3.The Tahsildar,
Attur Taluk, Salem District.

4.The District Surveyor,
District Survey Department,
Salem Collectorate Office,
Salem District.

5.The Taluk Surveyor,
Taluk Survey Department,
Attur Taluk Office,
Attur, Salem District.

6.Govindan

7.Kalian

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records from the third respondent and quashing the impugned Proceedings in Na.Ka.No.2616/2016/A2 dated 12.09.2016 of the third respondent and further direct third respondent with the assistance of fourth and fifth respondents to survey the lands in S.No.61/2, S.No.68/2 and S.No.61/1 in Kaatukottai Village, Attur Taluk, Salem District as per the FMB Sketch and as per A and B Survey Stones with particular reference to the dividing line between S.No.61/2 and 61/1 on the North and the dividing line between S.Nos.68/2 and 61/1 on the East to identify the common pathway between S.No.61/2 and 61/1.

For Petitioner : Mr.N.R.Anantha Rama Krishnan

For Respondents : Mr.I.Sathish,
Additional Government Pleader
for RR 1 to 5
RR 6 & 7 - No Appearance

O R D E R

The petitioner is aggrieved against the order of the third respondent, wherein and whereby, his request for measuring his land at Survey No.61/2 and 68/2 and identify the boundary line between the petitioner's land and the lands belonging to the sixth and seventh respondents at Survey No.61/1 was rejected.

2. In this Writ Petition, notice was ordered to the sixth and seventh respondents. Though the notice was served, they have chosen not to appear. Their names are printed in the cause list.

3. Heard Mr.N.R.Anantha Rama Krishnan, learned counsel appearing for the petitioner and Mr.I.Sathish, learned Additional Government Pleader appearing for the first to fifth respondents.

4. The learned counsel for the petitioner submitted that the third respondent is not justified in refusing to measure the property belonging to the petitioner, the sixth and seventh respondents. He further stated that the boundary fixed based on an earlier measurement made in the year 2014 on the other side of the land of the petitioner, has got nothing to do with the present requirement. He also submitted that the suit pending in O.S.No.22 of 2014 on the file of the District Munsif Court, Attur, is also not in respect of properties belonging to the petitioner and the sixth and seventh respondents.

5. Needless to say, that it is for the third respondent to consider the request of the petitioner and conduct an enquiry in the presence of the petitioner, sixth and seventh respondents and arrive at a conclusion as to whether the request of the petitioner can be considered based on the respective documents of title to be filed by the petitioner as well as the sixth and seventh respondents. If there is no other legal impediment in making such measurement, the third respondent shall consider the request of the petitioner and pass appropriate orders accordingly. Since, the sixth and seventh respondents are not appearing before this Court and placing their case, this Court is left with no other option except to remit the matter back to the third respondent to consider the claim of the petitioner once again.

6. Accordingly, this Writ Petition is allowed and the matter is remitted back to third respondent to consider the claim of the petitioner and the sixth and seventh respondents and pass appropriate orders on merits in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

gsi/vsi

To

1. The District Collector,
Salem District.
2. The Revenue Divisional Officer,
Attur Revenue Division,
Salem District.
3. The Tahsildar,
Attur Taluk,
Salem District.
4. The District Surveyor,
District Survey Department,
Salem Collectorate Office,
Salem District.
5. The Taluk Surveyor,
Taluk Survey Department,
Attur Taluk Office,
Attur, Salem District.

W.P. No.27008 of 2017

SSI (CO)
GMY (04/01/2019)