

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2018

CORAM:

THE HON'BLE DR.JUSTICE S.VIMALA

W.P.No.29905 of 2018

M.Janarthanam

... Petitioner

Vs.

1. The Chief Secretary to Government,
Government of Puducherry,
Chief Secretariat,
Puducherry - 605 001.
2. The Director,
Department of Survey and Land Records,
Sakthi Nagar, Kamaraj Salai, Saram,
Puducherry.

3. S.Karthikeyan

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus, to direct the respondents 1 and 2 to take suitable action against the 3rd respondent on the basis of the representation submitted by the petitioner on 10.02.2016 and 02.04.2016.

For Petitioner	:	Mr.M.Gnanasekar
For Respondents	:	M/s.G.D.Jearany Government Advocate

ORDER

This writ petition has been filed by the petitioner seeking direction to respondents 1 and 2 to take action against the 3rd respondent.

2. In the year 2006, a suit has been filed by one John Paul Raj in O.S.No.125 of 2006, on the file of the Principal District Judge, Puducherry. The District Judge has appointed an Advocate Commissioner on 03.03.2010. It is claimed that without actually measuring the land, the Advocate Commissioner submitted a report. Hence, the District Judge again appointed another Advocate Commissioner. The said Advocate Commissioner inspected the land along with one Surveyor and submitted a report. It is

claimed by the petitioner that the measurement made by the Surveyor is not correct and there was a difference in the measurement made by the Surveyor and the petitioner herein. So saying, the petitioner lodged a complaint dated 02.04.2016 before the first respondent, seeking to take action against the said Surveyor/3rd respondent. Apart from that, the petitioner issued a legal notice through his counsel on 19.09.2018 to the first respondent in this regard.

3. Now, it is the grievance of the petitioner that the said complaint has not been considered by the 1 and 2 respondents till date and no action has been taken against the 3rd respondent.

4. Furthermore, in para-8 of the affidavit filed in support of this writ petition, it is stated that Surveyor was not in a position to identify the land and therefore, he could not measure the land.

5. From a perusal of the records, it is evident that the trial Court is seized of the matter and orders are yet to be passed by considering the report submitted by the Surveyor.

6. Till the trial Court considers the matter and passes orders on the report submitted by the Surveyor, the question of taking action against the Surveyor does not arise, when the report is pending consideration before the Civil Court, appropriate action, if any, can be taken only subject to the views expressed by the Civil Court with regard to validity or otherwise of the surveyor's report.

7. The writ petition, therefore, being premature is liable to be dismissed. Accordingly, the writ petition is dismissed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Chief Secretary to Government,
Government of Puducherry,
Chief Secretariat,
Puducherry - 605 001.

2. The Director,
Department of Survey and Land Records,
Sakthi Nagar, Kamaraj Salai, Saram,
Puducherry.

COPY TO
The Principal District Judge,
Puducherry

+1cc to Mr.M.Gnanasekar, Advocate, S.R.No.78506

+1cc to the Government Pleader, S.R.No.78130

W.P.No.29905 of 2018

MG(CO)
GSP(21/12/2018)