

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2018

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P.No.31142 of 2018 and W.M.P.No.36342 of 2018

P.Krishnamoorthy

...Petitioner

..Vs..

1.The District Collector,
Erode - 638 011,
Erode District.

2.The Revenue Divisional Officer,
Brough Road,
Erode - 638 001,
Erode District.

3.The Tahsildar,
Erode Taluk,
Erode District

4.The Divisional Engineer,
Highways Department (C & M),
Gobichettipalayam - 638 452,
Erode District.

5.The Assistant Director,
Survey and Boundaries,
Land Survey Records,
Collectorate Building,
Erode - 638 011.

...Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, forbearing the respondents from interfering with the petitioner's right to property measuring 1680 sq.ft., bearing in old S.No. 26/2 corresponding to R.S. Nos. 26/6, 26/17, 26/18 and 26/19 of samigoundanpalayam Village, Erode Taluk, Erode District until resurvey is conducted on the basis of old revenue records and his sale deed dated 14.06.1985, to rectify the anomaly and to identify and demarcate his property with that of Nasiyanur - Attayamapalayam road by considering his representations dated 01.08.2018, 31.08.2018, 30.10.2018.

For Petitioner : Mr.N.Manokaran

For Respondents: Mr.V.Shanmugasundar
Special Government Pleader

O R D E R

By consent of both parties, the Writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner has come up with this Writ Petition forbearing the respondents from interfering with the petitioner's right to property measuring 1680 sq.ft., bearing in old S.No. 26/2 corresponding to R.S. Nos. 26/6, 26/17, 26/18 and 26/19 of samigoundanpalayam Village, Erode Taluk, Erode District until resurvey is conducted on the basis of old revenue records and his sale deed dated 14.06.2018, to rectify the anomaly and to identify and demarcate his property with that of Nasiyanur-Attayamapalayam road by considering his representations dated 01.08.2018, 31.08.2018, 30.10.2018.

3. The contention of the learned counsel appearing for the petitioner is that the petitioner has become the owner of the property by way of bequest from his father under a Will dated 12.07.1993 and the Sub-Division was done without giving notice to the parties concerned. It is further submitted by the learned counsel for the petitioner that at the time of Sub-Division, an error had crept in, which had not been referred by the authorities. Therefore the petitioner has been giving several representations to the authorities to measure, re-survey and give the correct Sub-Division numbers. However, the request of the petitioner had not been acceded to.

4. Today, at the time of hearing the learned counsel appearing for the petitioner had produced a notice dated 19.11.2018, wherein the petitioner has been called upon to vacate the place in survey number 26/6 stating that the said lands belonged to the Highways Department. The notice also further stated that it is an encroachment by the petitioner and in the event the petitioner claimed the ownership over the same, he is directed to produce patta and title deeds and submit the same before the Assistant Divisional Engineer, National Highway Departments. In such circumstances, as there is a clear eviction by the Highways Department, the petitioner is seeking for the relief as stated supra.

5. The learned Special Government Pleader who accepts notice on behalf of the respondents submitted that the particular survey No. is classified as road poromboke.

6. As there is only difference and mistake in the revenue Sub-Division, this Court is of the view that on production of patta and the title deeds by the petitioner, the respondents 3 and 5 may be directed to survey and demarcate the property of the petitioner.

7. Accordingly, the petitioner is directed to produce the patta and title deeds to the respondents 3 & 5, within a period of one week from the date of receipt of a copy of this order and after due enquiry, the said respondents shall survey and demarcate the aforesaid petitioner's property in consonance with old survey number as well as resurvey Nos. However, it is made clear that in any event if there is any encroachment, it is open to the authorities concerned to proceed in the manner known to the law. The status quo as on date shall be maintained till then.

With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

arr/rst

To

- सत्यमेव जयते
- 1.The District Collector,
Erode - 638 011,
Erode District.
 - 2.The Revenue Divisional Officer,
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Erode - 638 001,
Erode District.
 - 3.The Tahsildar,
Erode Taluk,
Erode District
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4.The Divisional Engineer,
Highways Department (C & M),
Gobichettipalayam - 638 452,
Erode District.

5.The Assistant Director,
Survey and Boundaries,
Land Survey Records,
Collectorate Building,
Erode - 638 011.

+1cc to Mr.N.Manokaran, Advocate Sr.81113
+1cc to the Government Pleader Sr.81766

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