



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.09.2018

CORAM:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P. (MD) No.4549 of 2018

Vadivel

... Petitioner

vs.

1.The District Collector,
Karur District, Karur.

2.The Tahsildar,
Kadavur Taluk, Kadavur,
Karur District.

3.The Taluk Surveyor,
Kadavur Taluk,
Kadavur, Karur District.

4.Ramalingam

5.Ramesh @ Balamurugan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Mandamus directing the respondents 1 to 3 to survey the vacant site of the property measuring 0.00.52 Hectares comprised in Old Natham Survey No.269/3(P) co-related to new Natham R.S.No.706/9 bearing Patta No.1040 and 0.00.37 Hectares comprised in Old Natham Survey No.269/3(P) co-related to new Natham R.S.No.706/10 bearing Patta No.132 situated at P.Udaiyapatti, Pannapatti Village, Kadavur Taluk, Karur District and demarcate the same by removing the obstruction made by the respondents 4 and 5 within the stipulated time as fixed by this Court.

For Petitioner : Ms.V.Vilma Remy

For Respondents : Mr.M.Jeyakumar
Additional Government Pleader
for R.1 to R.3

:Mr.R.Mathiyalagan
for R.4 and R.5

**ORDER**

The petitioner is before this Court seeking a direction to the respondents 2 and 3 to survey the subject property and demarcate the same.

WEB COPY 2. However, it appears from the averments contained in the affidavit filed in support of the writ petition that the respondents 4 and 5 who are the adjacent land owners to the petitioner, are attempting to grab the land belonging to the petitioner. From the averments as disclosed in the writ petition, it appears that there is a boundary dispute as between the petitioner and the respondents 4 and 5 and in view of the dispute, the respondents 2 and 3 could not undertake the survey as requested by the petitioner.

3. It appears that at the instance of the respondents 4 and 5, a suit has also been filed before the competent civil Court in O.S.No.228 of 2017 for bare injunction. The learned Counsel appearing for the respondents 4 and 5 would submit that in case the petitioner is interested in surveying and measuring his land, it is always open to the petitioner to approach the civil Court in the pending litigation and asked for appointment of Advocate Commissioner for undertaking the survey and instead of doing so, the petitioner has approached this Court invoking its extraordinary jurisdiction under Article 226 of the Constitution of India.

4. This Court is in agreement with the submissions made on behalf of the respondents 4 and 5. When there is a dispute between the petitioner and the respondents 4 and 5, this Court would restrain from giving any direction at the instance of one of the parties to the Tahsildar or the Taluk surveyor to survey the land. In the proceedings of such dispute between the petitioner and the respondents 4 and 5, a proper course would be to approach the competent civil Court to work out their remedies in the manner known to law. In this case, admittedly there is a suit pending at the instance of the respondents 4 and 5 and it is always open to the petitioner to seek appropriate remedies before pending litigation in the civil suit.

5. For the above said reasons, this Court is of the considered view that the Writ Petition is not maintainable and accordingly, the same is dismissed. No costs.

Sd/-

Assistant Registrar (Crl Side)

// True Copy //

Sub Assistant Registrar(CS-I)



To

1.The District Collector,
Karur District,
Karur.

2.The Tahsildar,
Kadavur Taluk,
Kadavur,
Karur District.

3.The Taluk Surveyor,
Kadavur Taluk,
Kadavur,
Karur District.

+1 CC To M/S.VILMA REXY, Advocate SR. NO. 86050
+1 CC TO The Special Government Pleader SR.NO. 85662

W.P.(MD) No.4549 of 2018
19.09.2018

SSI
TR/RP/SAR-I (11.10.2018) 3P 6C