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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 09.08.2018
CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
AND
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

W.A(MD)No.748 of 2014
and
M.P(MD)No.1 of 2014

V.Rajendran ... Appellant/4th Respondent

Vs.

1.Mariappan ... 1st Respondent/Writ Petitioner

2.The District Collector,
Thoothukudi District,
Tuticorin.

3.The Tahsildar,
Thoothukudi,
Thoothukudi District.

4.The Inspector of Land Survey (Maintenance),
Tuticorin Division,
Tuticorin.

... Respondents 2 to 4/
Respondents 1 to 3

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order, dated 25.06.2013 made in W.P(MD)No.10100 of 2013, on the file of this Court.

Prayer in WP(MD)No. 10100/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus calling for the records relating to the impugned order dated 28.03.2013 in petition No. 19/2013 passed by the 3rd Respondent and quash the same and direct the 3rd Respondent to survey and measure property at S.no. 138/3B of Maravanmadam village, Tuticorin District.

For Appellant	: Mr.C.Dhanaseelan
For R - 1	: Mr.B.Rajesh Saravanan
For R - 2 to 4	: Mrs.J.Padmaavathi Devi,
	Special Government Pleader.

**JUDGMENT**

**(Judgment of the Court was delivered by
PUSHPA SATHYANARAYANA, J.)**

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This Writ Appeal is filed by the fourth respondent in W.P(MD) No.10100 of 2013.

2.In the said Writ Petition, the prayer was to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order dated 28.03.2013 in Petition No.19 of 2013 passed by the third respondent and quash the same.

3.The impugned order was passed by the Inspector, Land Surveyor, Tuticorin. In the said Petition No.19 of 2013, the writ petitioner had sought for measurement of the property situated in Survey No.138/3B in Maravanmadam Village. It is his case that about 12 plots purchased by him and others, have to be measured and identified. The appellant had filed a caveat stating that in Survey No.138/3B a portion of the property belonged to his mother Chandra and that the measurements should not be done. The appellant has stated further that he had already filed a caveat before the civil Court and there is a title dispute between the appellant and the fourth respondent. The Land Surveyor had directed the parties to get their title before the appropriate civil Court. Aggrieved by that, the writ petitioner had filed the above Writ Petition, which was disposed of directing the respondents 2 and 3 therein to survey and measure the plot of the writ petitioner and others, after giving notice to the fourth respondent. It was also further stated that mere filing of caveat petition will not preclude the authorities from surveying the property. Aggrieved by the abovesaid order, the fourth respondent has preferred the above Writ Appeal.

4.The appellant has also filed typed-set of papers, wherein, he has produced his title deeds standing in the name of his mother purchased in the year 1988. The writ petitioner's sale deeds were all subsequent to the year 1993 and 2008. Both the appellant and the writ petitioner claimed title based on their respective title deeds. In case, they have any dispute with regard to the measurement of the property, it is open to them to go before the appropriate civil Court by adducing appropriate evidence with the help of Commissioner and Surveyor and establish the title and get the same declared. As there is a dispute by the other side that the property claimed by the writ petitioner is already in the occupation of the appellant by virtue of the sale deed, this Court cannot go into the merits without evidence. Therefore, the parties are directed to seek their remedy before the appropriate civil Court and get the property measured by obtaining direction from the civil Court.



5. In the light of the above, the order passed in the Writ Petition in W.P(MD)No.10100 of 2013 is set aside. Accordingly, the Writ Appeal is allowed directing the parties to work out their remedies before the civil Court. No costs. Consequently, connected Miscellaneous Petition is closed.

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/True Copy/

Sd/-

Assistant Registrar(Crl.side)

Sub Assistant Registrar(CS-IV)

To

1. The District Collector,
Thoothukudi District,
Tuticorin.

2. The Tahsildar,
Thoothukudi,
Thoothukudi District.

3. The Inspector of Land Survey (Maintenance),
Tuticorin Division,
Tuticorin.

+1CC to Mr.C.Dhanaseelan, Advocate, SR.No.77785
+1CC to Mr.B.Rajesh Saravanan, Advocate, SR.No. 77866
+1CC to the Special Government Pleader SR.No.77933

W.A(MD) No.748 of 2014
09.08.2018

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ES/SKN/RSK/SAR 4/03.09.2018/3P/7C