



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.02.2018

CORAM

WEB COPY

THE HON'BLE MR.JUSTICE V.BHARATHIDASANW.P.(MD) No.1427 of 2017andWMP(MD) Nos.1174 and 10312 of 2017

Abdul Latheef

... Petitioner

-Vs-

1.The District Collector,
Thanjavur District,
Collectorate,
Thanjavur.

2.The Tahsildhar,
Papanasam Taluk,
Taluk Office,
Papanasam, Thanjavur District.

3.The District Surveyor,
Thanjavur,
Thanjavur District.

4.The Taluk Surveyor,
Papanasam,
Thanjavur District.

5.The Inspector of Police,
Papanasam Police Station,
Papanasam,
Thanjavur District.

6.Mohammed Igbal

... Respondents

Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondents 3, 4 and 5 not to proceed with survey the land situated backside the petitioner's house site in old Door No.6/49 at East Street, Rajagiri until the final decision of civil suit proceedings in S.A.(MD) No.1028 of 2008 on the file of this Court and O.S.No.93 of 2016 on the file of the District Munsif at Papanasam.

For Petitioner

: Mr.R.Narayanan

For RR 1to 5

: Mr.Aayiram K.Selvakumar

<https://hcservices.ecourts.gov.in/hcservices/>

Additional Government Pleader

For R-6

:Mr.S.Karthick Subramaniyam

O R D E R

WEB COPY This writ petition has been filed seeking direction not to survey the land situated in the backside house of the petitioner in old Door No.6/49 at East Street, Rajagiri, Papanasam Taluk, Thanjavur District.

2. According to the petitioner, he is the owner of the above said property. Earlier, in a suit filed for partition in O.S.No.114 of 1985 on the file of the learned Sub Court, Kumbakonam, by the co-sharers and decree has been passed in his favour. Against which, first appeal has been filed and the same has been dismissed. Against the order of dismissal, now, second appeal is pending before this Court. In the meantime, the sixth respondent, claiming to be the owner of the said property, filed another suit for injunction in O.S.No.93 of 2016 on the file of the District Munsif Court, Papanasam and obtained an order of interim injunction. Pending suit, the sixth respondent wants to survey the property and filed an application before the concerned authorities to survey the land. In the above circumstances, the petitioner has filed this writ petition, seeking direction to the respondents 3 to 5, not to survey the land in dispute till the disposal of O.S.No.93 of 2016, pending on the file of the District Munsif at Papanasam.

3. This Court, while entertaining the present writ petition on 30.01.2017, granted an order of *status quo*. Aggrieved over the same, now, the sixth respondent has filed a vacate stay petition stating that he is the owner of the property in dispute and by virtue of the interim order, he is not able to survey the property.

4. Admittedly, there is a dispute between the parties and in respect of which, a suit is pending before the civil Court and both parties should necessarily await the result of the suit. In the above circumstances, till the rights of the parties decided by the civil Court, the respondents 3 to 5 are directed not to survey the land in dispute, and after disposal of the suit, it is always open to the parties to file necessary application.

5. With the direction, this Writ Petition is disposed of. No costs. Consequently, WMP(MD)Nos.1174 and 10312 of 2017 are closed.

Sd/-
Assistant Registrar

/True Copy/



To

1.The District Collector,
Thanjavur District, Collectorate,
Thanjavur.

2.The Tahsildhar,
Papanasam Taluk,
Taluk Office,Papanasam, Thanjavur District.

3.The District Surveyor,
Thanjavur, Thanjavur District.

4.The Taluk Surveyor,
Papanasam, Thanjavur District.

5.The Inspector of Police,
Papanasam Police Station,
Papanasam, Thanjavur District.

+One cc to The Special Government Pleader, SR.No.48278

+One cc to Mr.R.Narayanan, Advocate, SR.No.47411

mj
RL/8C/3P/KK/SAR1/26/2/2018

W.P.(MD) No.1427 of 2017

09.02.2018