



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.11.2018

CORAM:

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

W.P. (MD).23494 of 2018

Kaja Mydeen

... Petitioner

Vs.

The Tahsildar,
Melur Taluk,
Madurai District.

..Respondent

PRAYER: This Writ Petition is filed under Article 226 of Constitution of India, praying for issuance of Writ of Mandamus, to direct the respondents to survey the petitioner's land in old survey No.273/7 in New Survey No.273/7A1A to the extent of eastern side 4 cents out of 71/2 cents situated at Karungalakudi village, Melur Taluk, Madurai District within a stipulated time fixed by this Court.

For Petitioner : Mr.S.A.Ajmalkhan

For Respondent : Mr.C.M.Marichelliah Prabhu
Additional Government Pleader

O R D E R

This writ petition has been filed seeking issuance of writ of Mandamus, to direct the respondents to survey the petitioner's land in Old Survey No.273/7 in New Survey No.273/7A1A to the extent of eastern side four cents out of 71/2 cents situated at Karungalkudi Village, Melur Taluk, Madurai District.

2.The learned counsel for the petitioner submits that the properties situated in Survey No.273/7 come under "A Scheduled property" and as per the partition deed effected on 18.03.1944, the property mentioned in 'A scheduled' was allotted to the petitioner's father. Out of one acre 11 cents, 23 cents in the middle northern side, 8 cents in the southern part northern side, 17 cents in eastern side north portion, totally 48 cents punja lands were allotted to the father of the petitioner. Thereafter, 37 cents out of 48 cents were sold through various sale to the third parties. The Government acquired 6 cents of lands along with a constructed house of the petitioner's property for laying a four way road. Remaining five cents were left out for them, out of 48 cents. But the patta was granted in Patta No.1415 in Survey No.273/7B1 A1 to the extent of one cent in the name of the petitioner and his brother.

3. Since some third parties have disturbed the possession of the said property, the petitioner and his brother filed a civil suit in O.S.No.25 of 2010 before the District Munsif Court, Melur against one Natchammal and two others seeking the relief of declaration permanent injunction. The said suit was decreed in his favour on 16.09.2017.



4. Thereafter, on 14.09.2018, the petitioner made an application to the Tahsildar, Melur seeking patta and sub division for the above mentioned property through online along with necessary documents. The Tahsildar sent a notice to the petitioner on 17.09.2018 stating that on 20.09.2018, the property in Survey No.273/7A1A will be surveyed. But no action was taken on that date. Again on 25.09.2018, the Taluk Surveyor received a notice from the Tahsildar on 25.09.2018 stating that on 01.10.2018 the survey will be conducted. On that day also, they did not conduct survey for the property. On 03.10.2018, the petitioner remitted the survey fee and made an application before the Tahsildar Office, Melur requesting to survey and sub divide the property. Since the respondent has not taken any action to survey the land, the petitioner has filed the present writ petition with the above said prayer.

5. Heard the learned counsel on either side and perused the records.

6. It is not in dispute that the petitioner's father had 48 cents land by way of partition, out of which, 37 cents was sold out through different sale deeds to the third parties, 6 cents was taken by the Government for the purpose of laying road and the remaining 5 cents were in the possession of the petitioner and his brother. But the petitioner was issued with a patta for one cents in patta No.1415 in Survey No.273/7 B1 A1. With regard to the four cents, the petitioner seeking survey of the land in Survey No.273/ 7 A 1 A, citing the judgment and decree dated 16.09.2017 passed in favour of the petitioner in O.S.No.25 of 2010, has sent representation to the Tahsildar and the same is pending without any progress.

7. The learned counsel for the petitioner is not in a position to state whether any appeal has been filed by the opposite parties against the order of the trial Court.

8. In the above facts and circumstances of the case, this Court directs the respondent to survey the land in Survey No.273/7A1A situated at Karungalkudi Village, Melur Taluk, Madurai District on production of all the relevant documents by the petitioner and pass appropriate orders regarding issuance of patta to the petitioner, after affording necessary opportunity to the parties concerned, within a period of eight weeks from the date of receipt of a copy of this order.

9. With the above direction, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar (CO)



To

The Tahsildar,
Melur Taluk,
Madurai District.

+1cc to Mr.S.A.Ajmalkhan, Advocate Sr.No.97318

+1cc to SPL.Govt.Pleader, Sr.No.97370

TA

KM/PM/SAR2/21.12.2018/3P/4C

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