



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.06.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P(MD)No.2109 of 2017

Tamilselvi

... Petitioner

vs.

1. The Tahsildar,
Thirupathur Taluk,
Sivagangai District.
2. The Taluk Surveyor,
Office of the Tahsildar,
Thirupathur,
Sivagangai District.

3.M.Murugesan

... Respondents

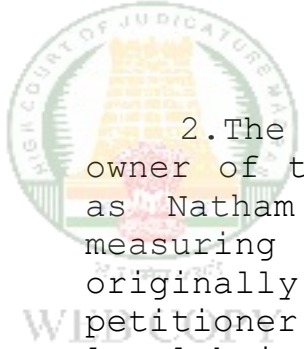
(R3 is impleaded vide Court order dated 09.11.2017 in W.M.P(MD) No.15300 of 2017).

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, to direct the respondent 1 and 2 to survey the land of the petitioner in Survey No.164/4 situated at Kavanoor Village, Thirupathur Taluk, Sivagangai District and fix the boundary stones within the stipulated time prescribed by this Court.

For Petitioner : Mr.T.Lajapthi Roy
For R1 and R2 : Mr.N.Shanmuga Selvan
For R3 : Mr.S.Bharathykannan

ORDER

This Writ Petition is filed for issuing of Writ of Mandamus, to direct the respondent 1 and 2 to survey the land of the petitioner in Survey No.164/4 situated at Kavanoor Village, Thirupathur Taluk, Sivagangai District and fix the boundary stones within a stipulated time to be prescribed by this Court.



2.The case of the petitioner is that the petitioner is the owner of the land in S.No.164/4 and the said land was classified as Natham and new survey number was allotted as N.S.No.164, measuring an extent of 1.5 cents (approx.). Since the property originally stood in the name of the petitioner's husband, the petitioner states that she is entitled to have the property as legal heir of her husband.

3.It is further stated by the petitioner that there was some dispute in respect of land in S.No.168/4, which was classified as pathway in Kavanoor Village and that a suit was filed in O.S.No.88 of 2016. However, the petitioner's representation, dated 05.11.2017 for measuring the property in S.No.164/4 and to fix boundary as per the patta, was not considered by the respondent and hence, the petitioner states that she was constrained to file the above Writ Petition.

4.This Writ Petition was seriously opposed by the first respondent by filing a counter. It is to be seen that the title claimed by the petitioner in respect of an extent of 1.5 cents in S.No.164/4 in Kavanoor Village is not disputed by the respondents 1 and 2. The respondents 1 and 2, referring to the nature of land in S.No.168/1, contended that it is a pathway. Since the writ petitioner made an attempt to get her right declared in a civil suit and in a previous Writ Petition in respect of a portion of the pathway in S.No.168, the respondents 1 and 2 filed a counter explaining the nature of property in S.No.168. Insofar as the land in S.No.164/4 is concerned, it is not the case of the respondents 1 and 2 that the land belongs to some other party or it is vested with the respondents as a part of pathway or Government Poramboke. No claim is made in respect of S.No.164/4.

5.Insofar as the third respondent is concerned, he impleaded himself by filing an application. In the application filed by him to implead himself to the proceedings, the third respondent also did not claim any right over the property in S.No.164/4. The learned Counsel for the respondents 1 and 2 contended that the petitioner has come forward with the present Writ Petition suppressing the material facts and that therefore, the Writ Petition cannot be entertained. If the petitioner claim anything more than what he is entitled in S.No.164/4, he can pursue his remedy only before Civil Court.

6.It may be true that the petitioner has filed another writ petition and a suit. However, they are in respect of different survey numbers, which is claimed to be part of pathway and they are in respect of land vested with public. However, in respect of S.No.164/4, measuring 1.5 cents, none of the respondents have disputed the title nor claimed title. In such circumstances, this Court is inclined to pass the following order:



"The first respondent is directed to consider the petitioner's representation dated 05.11.2017 and pass appropriate orders or do the needful, after giving notice to the persons, who are all interested, within a period of six weeks from the date of receipt of a copy of this order".

7. With the above directions, this Writ Petition is disposed of. No Costs.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1. The Tahsildar,
Thirupathur Taluk,
Sivagangai District.
2. The Taluk Surveyor,
Office of the Tahsildar,
Thirupathur,
Sivagangai District.

+ 1 cc TO Mr.T.Lajapathi Roy , Advocate in SR No. 68576
+ 1 cc TO Mr.S.Bharathy Kannan , Advocate in SR No. 68541

cmr
AE/SV MMS/SAR1/26.06.2018/3P/5C

W.P (MD) No.2109 of 2017
18.06.2018