



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.09.2018

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.(MD)No.19697 of 2018

and

W.M.P(MD)No.17473 of 2018

B.Chelladurai

... Petitioner

Vs.

1.The Tahsildar
Taluk Office,
Karaikudi,
Sivagangai District.

2.The Taluk Head Surveyor,
Taluk Office,
Karaikudi,
Sivagangai District.

3.The Taluk Assistant Inspector,
Taluk Office,
Karaikudi,
Sivagangai District.

4.M.Kalailingam

...Respondents

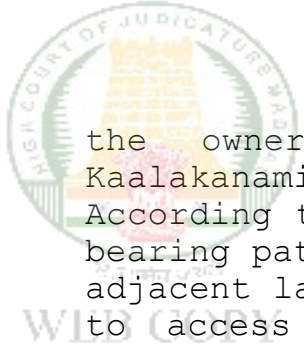
Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned memo dated 06.09.2018 in AFL/16/2018 of the third respondent and quash the same consequently directing the respondents 1 - 3 to consider the petitioner's representation dated 03.10.2017 sent to the first respondent for survey his lands and passed appropriate order after due enquiry with the interest person in the subject matter.

For Petitioner : Mr.I.Suthakaran

For Respondents: Mr.C.M.Mari Chelliah Prabhu
Additional Government Pleader
for R1 to R3

O R D E R

According to the petitioner, he and his family members are



the owners of the land comprised in S.No.142/1A and 142/3A1 at Kaalakanami Village, Kalaiyarkovil, Sivagangai District. According to the petitioner, patta was given to the said property bearing patta No.1551 and 1313. The fourth respondent, who is the adjacent land owner, constructed a house without leaving any space to access by encroaching upon a portion of the land under occupation of the petitioner and his family members. According to the petitioner, there are proceedings pending under the provisions of Criminal Procedure Code before the Revenue Divisional Officer, Sivagangai, in regard to the dispute between the petitioner and the fourth respondent.

2. In the above said circumstances, the petitioner appears to have submitted an application on 03.10.2017 to the first respondent to survey and mark the boundaries of the land in order to prevent anyone to encroach upon the land and necessary fees had also been paid for carrying out such survey.

3. It appears that the fourth respondent had also made a similar request for survey of the land and in that regard, he had approached this Court in W.P(MD)No.16789 of 2018 and this Court directed the authorities concerned to consider the application and to conduct an enquiry, vide order dated 30.07.2018. Thereafter, it appears that the first respondent had issued notice to the petitioner along with some others on 06.09.2018 directing them to present during the inspection for enquiry which was scheduled originally to be held on 17.09.2018. The said notice of the first respondent is challenged in the present writ petition.

4. What is challenged in the writ petition is only the show cause notice issued by the first respondent directing the interested parties to be present for the enquiry in regard to the survey of subject lands. Instead of responding to the show cause notice, the petitioner has chosen to approach this Court by invoking the extraordinary jurisdiction under Article 226 of the Constitution of India. It is also to be seen that the fourth respondent had also approached this Court and obtained the direction to survey his land and consequently, the present show-cause notice is issued on the basis of such direction issued by this Court on 30.07.2018.

5. While such is the fact, this Court is unable to appreciate as to how the petitioner can maintain the present writ petition seeking to stall the enquiry to be conducted by the first respondent. Therefore, this Court is of the considered view that the present writ petition is premature to be entertained at this stage and it is always open to the petitioner to respond to the show cause notice and explain the position in regard to the ownership of the property under in occupation. Instead of doing that, the petitioner has directly invoked the writ jurisdiction of this Court rather unnecessarily and unwantedly.

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

6. For the above said reason, this Court is of the considered view that this writ petition is not maintainable and therefore,



WEB COPY

3

the same is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (ADI)

// True Copy //

Sub Assistant Registrar (CS-I)

To

1. The Tahsildar
Taluk Office,
Karaikudi,
Sivagangai District.
2. The Taluk Head Surveyor,
Taluk Office,
Karaikudi,
Sivagangai District.
3. The Taluk Assistant Inspector,
Taluk Office,
Karaikudi,
Sivagangai District.

+1 CC To MR.I.SUTHAKARAN, Advocate SR. NO. 84171
+1 CC TO The Special Government Pleader SR.NO. 8340

W.P. (MD) No. 19697 of 2018
and

W.M.P (MD) No. 17473 of 2018
12.09.2018

SKN

TR/SKN/SAR-I (26.10.2018) 3P 6C