



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

W.A. (MD) No. 172 of 2011

and

M.P (MD) No. 1 of 2011

S. Rajalingam

... Appellant/Petitioner

Vs.

1. The State of Tamil Nadu,
represented by
The District Collector,
Tuticorin District, Tuticorin.
2. The Superintendent of Police,
Tuticorin District, Tuticorin.
3. The District Revenue Officer,
Tuticorin District, Tuticorin.
4. The Revenue Divisional Officer,
Office of the Revenue Divisional Office,
Tuticorin.
5. The Tahsildhar,
Taluk Office, Tuticorin.
6. The Head Surveyor,
Taluk Office, Tuticorin.
7. The Inspector of Police,
Tuticorin, Tuticorin District.
8. Thangaraj Gandhi

9. Raja

... Respondents/ Respondents

PRAYER: Appeal filed under Clause 15 of the Letters Patent, praying to set aside the order dated 22.07.2010 made in W.P(MD) No. 9406 of 2010.

Prayer in WP(MD). 9406/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF MANDAMUS, directing the Tahsildhar and the Surveyor, the Respondents 5 and 6



to measure the property of the petitioner which is situate in Survey No.396/3C of an extent of 2 acres 7 cents at Kumaragiri Village, Tuticorin Taluk and District with Police protection of the 7th Respondent.

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For Appellants : Mr.S.Siva Thilakar
For Respondents : Mr.M.Murugan
Government Advocate for R.1 to R.7
Mr.Chengiz Khan
for Mr.G.Prabhu Rajadurai for R.8&R.9

JUDGMENT

(Judgment of the Court was delivered by M.SATHYANARAYANAN,J.)

By consent, the writ appeal is taken up for final disposal.

2. Mr.M.Murugan, learned Government Advocate appears for respondents 1 to 7 and Mr.Chengiz Khan, learned Counsel representing Mr.G.Prabhu Rajadurai, learned Counsel appears for respondents 8 and 9.

3. The appellant has submitted a representation dated 16.02.2010, stating, among other things, that he has purchased a landed property to an extent of 2 acres 7 cents in Survey No.396/3C at Kumaragiri Village, Tuticorin Taluk and District, through a registered sale deed dated 20.10.2009 and he has been issued with patta bearing No.3757 by the Head Quarters Tahsildar, Tuticorin. The appellant originally submitted an application dated 04.11.2009 to the Tahsildar - the fifth respondent herein for survey and measurement of the said land. Since it has not been given disposal, he filed W.P(MD)No.9406 of 2010 praying for issuance of a Writ of Mandamus directing the respondents 5 and 6 therein to survey and measure the petitioner's property in Survey No. 396/3C admeasuring an extent of 2 acres 7 cents. The said writ petition came to be dismissed on 22.07.2010 on the ground that there is a serious dispute over the title of the said property. Challenging the legality of the same, the present writ appeal is filed.

4. The learned Counsel for the appellant/writ petitioner would submit that for survey and measurement of the land, neither the jurisdictional Tahsildar nor the Head Surveyor need not go into the issue relating to the title and the benefit of the survey may enure either in favour of the petitioner or in favour of the private respondents and hence, prays for interference.

5. The learned Government Advocate appearing for the respondents 1 to 7, on instructions, would submit that as on today, the patta in respect of the land in question stands in



favour of the petitioner and if application is filed by paying the prescribed fees and if it is in order, the same will be entertained and the official concerned will carry out the survey and measurement.

6. The learned Counsel for the respondents 8 and 9 would submit that the petitioner, under the guise of filing the application for survey and measurement, seeks to get a decision regarding the title dispute and taking into consideration the same, the learned Judge has rightly dismissed the same. Alternately, a plea has been made to the effect that the respondents 8 and 9 may be permitted to submit the applications for survey and measurement and after putting the other parties on notice, the respondents 5 and 6 may be directed to carry out the lawful exercise.

7. This Court has carefully considered the rival submissions and perused the materials available on record.

8. In the considered opinion of this Court, in the event of survey and measurement being done by respondents 5 and 6, the right and title of the respective parties of the land in question is not decided and the only statutory duty cast on the official concerned is to carry out the survey and measurement, if the papers are otherwise in order.

9. This Court, taking into consideration the facts and circumstances of the case, permits the petitioner as well as the respondents 8 and 9 to submit the applications to the fifth respondent to survey and measure the land admeasuring an extent of 2 acres 7 cents in Survey No.396/3C of Kumaragiri Village, Tuticorin District, along with the relevant and supporting documents with prescribed fees within a period of four weeks from the date of receipt of a copy of this judgment and the fifth respondent, upon receipt of the same, may entertain the said applications, if the papers are otherwise in order and with the help of the sixth respondent, shall carry out the survey and measurement of the land in question and inform the decision taken to the petitioner as well as the respondents 8 and 9 within a period of twelve weeks thereafter.

10. In the result, this writ appeal is partly allowed as above. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(crl side)

/True Copy/



To

1. The District Collector,
Tuticorin District,
Tuticorin.
2. The Superintendent of Police,
Tuticorin District, Tuticorin.
3. The District Revenue Officer,
Tuticorin District, Tuticorin.
4. The Revenue Divisional Officer,
Office of the Revenue Divisional Office,
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5. The Tahsildhar,
Taluk Office, Tuticorin.
6. The Head Surveyor,
Taluk Office, Tuticorin.
7. The Inspector of Police,
Tuticorin, Tuticorin District.

+1cc to Mr.S.Siva Thilakar, Advocate Sr.No.40049
+1cc to Mr.G.Prabhu Rajadurai, Advocate Sr.No.40050
+1cc to Spl.Government Pleader Sr.No.40227

MR/RSB

VB/SV/MMS/SAR4/11/01/2018/4P/11C

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and
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