



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 14.11.2019

Coram::

The Honourable Dr.Justice G.Jayachandran

W.P.No.28377 of 2019

S.Jareena

... Petitioner

/versus/

1. The District Collector,
Tiruvallur District,
Office of the District Collector,
Tiruvallur - 602 001.
2. The Tahsildar,
Taluk Office, Pallipattu,
Tiruvallur District,
Pin - 631 207.
3. The Taluk Surveyor,
Taluk Office, Pallipattu,
Tiruvallur District,
Pin - 631 207.
4. The Executive Officer,
Pallipat Town Panchayat,
Tiruvallur District,
Pin - 631 207.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue Writ of Mandamus, directing the 2nd respondent to conduct survey of the petitioner property situated at Dalavoy Pattadai village, Pallipattu Taluk, Tiruvallur District, comprised in Old Survey No.115/11, new survey No.115/6B4A to an extent of 18 ½ cents, survey No.115/6A & as per Patta S.No.115/6A1 to the extent of 0.46 cents and Survey No.115/6A and as per Patta S.No.115/6A2 to the extent of 0.34 cents measuring altogether to the extent of 98 ½ cents with the help of District Surveyor along with Advocate Commissioner and to give detail report and sketch in respect of the encroachment made by the authorities to the petitioner.

For Petitioner : Mr.M.Jaikumar

For R1 to R3 : Mr.N.Inbanathan,
Additional Government Pleader

For R4 : Mr.E.Balamurugan
Special Government Pleader

O R D E R

Heard the Learned Counsel for the Petitioner and the Learned Counsel for the Respondents.

2. The petitioner herein claims that, he is the owner of land in Survey No.115/11 to an extent of 18 ½ cents, Survey No.115/6A and as per Patta S.No.115/6A1 to an extent of 0.46 cents and Survey No.115/6A and as per Patta S.No.115/6A2 to the extent of 0.34 cents measuring altogether to the extent of 98 ½ cents situated at Dalavoy Pattadi Village, Pallipattu Taluk, Tiruvallur District.

3. The grievance of the petitioner is that, a canal and mud road has been laid by the respondents illegally in her land without proper Acquisition Proceedings or compensation. Earlier, the petitioner has filed Writ Petition before this Court in W.P.No.23238 of 2018, wherein, the respondents has categorically denied the allegation made by the petitioner that the canal and mud road been laid by the respondents in the land of the petitioner. Therefore, the present Writ Petition.

4. The petitioner herein seeks measurement of field with the help of Advocate Commissioner and District Surveyor. After notice, the Learned Additional Government Pleader has reported to this Court that, pursuant to the Writ Petition, the respondents on 09.11.2019 asked the Firka Surveyor, Village Administrative Office, Village Assistant to measure the land of the petitioner as per the title document. In spite of that, the petitioner did not turn up. Hence, due to her absence, the land could not be surveyed on 09.11.2019.

5. The Learned Counsel for the petitioner submits that since the prayer in the Writ Petition is to measure the land by the District Surveyor in the presence of Advocate Commissioner, the notice issued by the Tahsildar, Pallipattu, Tiruvallur District, to be present on 09.11.2019 during the measurement was ignored. This Court finds that the grievance of the petitioner is that, a portion of land has been encroached by the Government for laying canal and road. It has been denied by the respondents in the earlier round of litigation itself. Now the petitioner wants to ascertain where the land lay and whether the said canal and road are really located in her land or elsewhere.

For the said purpose, the respondents has also deployed the Firka surveyor, Village Administrative Officer, Village Assistant to measure the land. The petitioner suspects the genuineness of these Officers and he needs a District Surveyor and Advocate Commissioner to be present while measuring.

6. This Court is of the opinion that there is no necessity for engaging an Advocate Commissioner. Since the petitioner doubt about the impartiality of the Firka Surveyor, the respondents may engage District Surveyor for measuring the land of the petitioner. The petitioner is directed to make necessary fees for measuring the land. On such payment, the Tahsildar, Pallipattu, Tiruvallur District, with the help of District Surveyor and Village Administrative Office, measure the land and report to the petitioner, within a period of six weeks, from the date of payment of fees by the petitioner.

7. Accordingly, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To,

1. The District Collector,
Tiruvallur District,
Office of the District Collector, Tiruvallur - 602 001.
2. The Tahsildar,
Taluk Office, Pallipattu,
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4. The Executive Officer,
Pallipat Town Panchayat,
Tiruvallur District, Pin - 631 207.

+1cc to Mr.M.Jaikumar, Advocate SR.No.94692

+1cc to The Government Pleader SR.No.95605

akm/16.12.19 /3p-7c/

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