

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2019

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P.No.31435 of 2019
and W.M.P.No.31607 of 2019

V.Deivanayagam

... Petitioner

/versus/

1.The District Collector,
Cuddalore District,
Cuddalore.

2.The Commissioner,
Nellikuppam Municipality,
Nellikuppam.

3.The Tahsildar,
Panruti Taluk,
Panruti.

4.The District Surveyor,
Cuddalore District,
Cuddalore.

5.The Taluk Surveyor,
Panruti,

Cuddalore District. सत्यमेव जयते... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issue of Writ of Certioraified Mandamus, calling for the records of the 2nd respondent notice dated 02.08.2019 under Na.Ka.No.1396/2015/F1, posted on 26.08.2019 received by the petitioner on 27.08.2019 and quash the same as illegal and invalid and consequently direct the respondents not to measure or survey the lands in Survey Nos.93, 110, 111, 112, 113 and 114, Panruty Taluk, Nellikuppam Sub Registry, Nellikuppam Municipal limits, Nellikuppam Town, Khan Shahib Abdul Razack Road which are classified as Gramanatham category until the disposal of O.S.No.130 of 2010 pending on the file of District Munsif Court, Panruti.

For Petitioner : Mr.Ashok Menon

For Respondents : Mr.J.Purushothaman,
Govt.Advocate for R1, R3, R4 & R5
Mr.V.Jayaprakash Narayanan,
GP for R2

O R D E R

Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents.

2. The petitioner seeks Certiorarified Mandamus to quash the notice issued to him by the Commissioner, Nellikuppam Corporation calling him to participate in the enquiry fixed on 29.09.2018 regarding the petition given by one V.Deivanayagam regarding the property in T.S.No.93.

3. From the notice impugned in this writ petition, this Court finds that Deivanayagam who is the petitioner herein claims 8 cents land in T.S.No.93, whereas, the petition has been received that it falls within the Sarkar Natham Poromboke as per the revenue records. Further it is also recorded in the impugned notice that a civil suit is pending regarding the subject land. Hence, to ascertain the ownership and possession, the Commissioner has summoned the petitioner herein to participate in the enquiry proceedings. Without participating the enquiry which was fixed on 21.09.2019, the petitioner has now filed this writ petition challenging the notice.

4. Since there is a representation and dispute regarding the ownership of the subject land, the Commissioner, Nellikuppam, in order to ascertain the fact, has summoned the petitioner herein to participate the enquiry. The petitioner if he is the lawful owner, instead of filing the writ petition, he can very well participate in the enquiry along with the documents with him and establish his right. Instead through writ petition the dispute is sought to be resolved summarily. This Court will not entertain such writ petition involving question of disputed fact Therefore, liberty to the petitioner to appear before the Commissioner and place all relevant records available with him to substantiate the said fact.

5. With the above observation, this writ petition is disposed of. Consequently, the connected miscellaneous petition is also closed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

- 1.The District Collector,
Cuddalore District,
Cuddalore.
- 2.The Commissioner,
Nellikuppam Municipality,
Nellikuppam.
- 3.The Tahsildar,
Panruti Taluk,
Panruti.
- 4.The District Surveyor,
Cuddalore District,
Cuddalore.
- 5.The Taluk Surveyor,
Panruti,
Cuddalore District.

+1cc to Mr.Ashok Menon, Advocate SR.92649
+1cc to Mr.V.Jayaprakash Narayanan, Advocate Sr.92574
+1cc to the Government Pleader Sr.93027

सत्यमेव जयते
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mr[co]
srg 11/12/2019