



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 13.02.2020
CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

REV.APLW(MD)No.175 Of 2019 in
W.P.(MD)No.10098 of 2019 and
W.M.P.(MD)No.23175 of 2019

Pyannan Chettiar ... Petitioner/3rd party
Vs.
1. P.Lakshmiammal ... 1st Respondent/Writ Petitioner
2. The District Collector,
Madurai District,
Collectorate Buildings,
Madurai District.
3. The Tahsildar,
Office of Tahsildar,
Peraiyur Taluk,
Madurai District.
4. The Surveyor, Peraiyur Taluk,
Madurai District.
5. The Superintendent of Police,
Madurai District.
6. The Inspector of Police,
Peraiyar Police Station,
Madurai District. ... Respondents 2 to 6/Respondents

Prayer: Review application is filed under Order 47 Rule 1 & 114 of Code of Civil Procedure, to review the order dated 25.04.2019 made in W.P.(MD)No.10098 of 2019 passed by this Court and dismiss the writ petition.

Prayer in WP(MD). 10098/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue Writ of Mandamus, directing the third respondent therein to consider the petitioner application dated 26.02.2019 with help of the 5th respondent.

For Review Applicant : Mr.G.R.Satish
For R-1 : Mr.K.Gokul
For R-2 to R-6 : Mr.M.Rajaraman,
Government Advocate.



O R D E R

This review application has been taken out by a third party to the writ proceedings.

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2. W.P.(MD)No.10098 of 2019 was filed by one Lakshmiammal/first respondent herein, seeking survey of the petition mentioned property. This Court disposed of the said writ petition by recording the submission of the learned Additional Government Pleader that the petition mentioned survey will be concluded on or before 10.05.2019. This Court specifically called upon the petitioner's counsel to state if there is any rival claim. The petitioner's counsel asserted that there is no rival claim and that is why the writ petition was disposed of by recording the submission of the learned Additional Government Pleader.

3. Now in the review application, it is pointed out that there is a serious dispute between the parties. The issue between them went up to the second appeal. S.A.No.53 of 2007 filed by the review applicant was dismissed. But then, it was clarified that the appellant will be entitled to seek demarcation of 61 cents of land in the petition mentioned survey numbers. Therefore, in the very nature of things, the first respondent herein ought to have arrayed the petitioner herein as one of the respondents in the writ petition. The first respondent clearly erred in not making the review applicant as a party to the proceedings. The first respondent's counsel also has not made any assertion that there is a rival claim. It is now seen that there is a dispute regarding survey and demarcation. Therefore, I could not have disposed the said writ petition by merely recording the submission of the learned Government counsel.

4. In this view of the matter, the order dated 25.04.2019 in W.P.(MD)No.10098 of 2019 stands set aside. The writ petition stands dismissed. However, liberty is given to the first respondent to file a fresh petition making the review applicant as a party and working out his remedy in the manner known to law. It is made clear that this Court had not expressed any opinion on the rights of the respective parties

5. The review application stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (crl.side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



To:

1. The District Collector,
Madurai District,
Collectorate Buildings,
Madurai District.
2. The Tahsildar,
Office of Tahsildar, Peraiyar Taluk,
Madurai District.
3. The Surveyor, Peraiyur Taluk,
Madurai District.
4. The Superintendent of Police,
Madurai District.
5. The Inspector of Police,
Peraiyar Police Station,
Madurai District.

+1.CC. To Mr.J.Senthil Kumaraiah, Advocate in SR No.6378

+1.CC. To Mr.K.Gokul, Advocate in SR No.6396

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MK (11.06.2020) 3P 8C