



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.03.2019

CORAM

WEB COPY

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

W.P(MD).No.3717 of 2019
and W.M.P.(MD).Nos.2920 & 5121 of 2019

Sivaji

.. Petitioner

Vs.

1.The Tahsildar,
Thirumayam Taluk,
Pudukkottai District.

2.The Taluk Surveyor,
Land Survey Department,
Thirumayam Taluk Office,
Pudukkottai District.

3.Gunasekaran

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India for issuance of Writ of Mandamus forbearing the respondents 1 & 2 from surveying / measuring lands in UDR Survey Number and Re-survey Nos. 82, 84 and 114 of Agavayal Devasthanam Village, Keelanilai Regn. Sub District, Thirumayam Taluk, Pudukkottai District, without affording an opportunity of hearing to the petitioner and considering the same on merits and strictly in accordance with law.

For Petitioner : Mr.K.N.Govardhanan
For Respondent 1 & 2 : Mr.R.Sethuraman
Special Government Pleader
For Respondent 3 : Mr.B.Jameel Arasu

ORDER

The writ petitioner herein namely Sivaji executed a sale deed dated 06.11.2013, in favour of the third respondent Gunasekaran conveying him 50% undivided share in the properties in question. Thereafter, the writ petitioner filed O.S.No.55 of 2014 before the Principal District Munsif, Pudukkottai for the relief of declaration and permanent injunction. The third respondent obtained individual patta in his favour on the strength of the sale deed dated 06.11.2013, and wanted to have the lands covered under the patta surveyed and measured. In order to forbear the authorities from doing so, W.P.(MD).No.3717 of 2019 came to be filed.

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

2.Heard the learned counsel on either side.



3. It is not in dispute that Gunasekaran had purchased only 50% undivided share in the properties. Therefore, the revenue authority could not have issued any individual patta. The Tahsildar, Thirumayam could have issued only joint patta in the names of both Sivaji and Gunasekaran. The question of conducting survey and measurement of the properties on the strength of the sale deed, dated 06.11.2013 or on the strength of the patta issued in favour of Gunasekaran will not arise at all. Since the Gunasekaran had purchased only an undivided share, unless his share is specifically divided by metes and bounds, he cannot get an individual patta or survey of the property sold to him.

4. I am of the view that the dispute between the parties can be resolved if the learned Principal District Munsif, Pudukkottai, expedites the trial and dispose of the suit filed by the petitioner herein. Therefore, the Principal District Munsif, Pudukkottai is directed to expedite the trial and dispose of the O.S.No.55 of 2014 on merits in accordance with law within a period of six months from the date of receipt of a copy of this order. Both the parties are directed to extend their fullest co-operation to dispose of the suit.

5. This writ petition is allowed on the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Crl Side)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Principal District Munsif, Pudukkottai.
2. The Tahsildar, Thirumayam Taluk, Pudukkottai District.
3. The Taluk Surveyor, Land Survey Department,
Thirumayam Taluk Office,
Pudukkottai District.

+1 CC to M/s.K.N.GOVARDHANAN, Advocate SR-55788[F] dated 21/03/2019
+1 CC to M/s.SPL GP (SR-55982[F] dated 22/03/2019)
+1 CC to M/s.B.JAMEEL ARASU, Advocate SR-56142[F] dated 22/03/2019
ps/12.04.2019/2p/7c

W.P (MD) .No.3717 of 2019