BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.06.2019

CORAM:

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR**

W.P.(MD)No.8135 of 2019

A.Muthusamy .. Petitioner

Vs.

1.The Tahsildar,
Campus of the Tahsildar Office,
Kayathar Taluk,
Tuticorin District.

2.The Taluk Head Surveyor,
Campus of the Tahsildar Office,
Kayathar Taluk,
Tuticorin District.

3.Vijayalakshmi, W/o.K.Muruganandam .. Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Mandamus, directing the second respondent to conduct the Survey of the petitioner's properties in Survey No.228A/1B, measuring to an extent of 6 Cents and fix the four boundaries after following the due procedure.

For Petitioner : Mr.Niranjan S.Kumar

For R1 & R2 : Mr.P.Kannithevan
Additional Government Pleader

For R3 : Mr.R.Murali

**ORDER**

The prayer sought for in this Writ Petition is to direct the second respondent to conduct the Survey of the petitioner's properties in Survey No.228A/1B, measuring to an extent of 6 Cents and fix the four boundaries after following the due procedure.

2.Heard Mr.Niranjan S.Kumar, learned counsel appearing for the petitioner, Mr.P.Kannithevan, learned Additional Government Pleader appearing for the respondents 1 and 2 and Mr.R.Murali, learned counsel appearing for the third respondent.

3.The petitioner had given a request to the first respondent/Tahsildar to measure the property in S.No.228A/1B, measuring an extent of 6 Cents, situated at Kayathar Taluk, Tuticorin District.

4.Pursuant to which, on 14.11.2018, the Firka Surveyor, Kayathar, had issued a summon/notice to the petitioner, directing him to be present on 27.11.2018 at 11.00 a.m. to measure his property, as requested.

5.However, it seems that, on the date fixed for measuring the property, the third respondent had objected for the same saying that there is overlapping of boundaries between the property belongs to her and the property belongs to the petitioner. Since there has been a dispute with regard to the alleged pathway, the third respondent had raised an objection for measuring the petitioner's property alone, instead, the third respondent wanted to measure the property of the petitioner as well as her property jointly and demarcate the boundaries of both the properties.

6.In view of the said objection, the measurement proposed on 27.11.2018 was not taken place. Only with this background, this Writ Petition has been filed with the aforesaid prayer.

7.The learned counsel appearing for the petitioner would submit that, insofar as the measurement of the property of the petitioner is concerned, if at all a dispute comes from the third respondent to measure her property, it is for the revenue authorities to measure that property, for which, the petitioner cannot have any objection. However, on that guise of the objection of the third respondent, the revenue authorities cannot defer and postpone endlessly the measurement activities of the petitioner's property.

8.The learned counsel for the third respondent also would submit that insofar as the measurement of the petitioner's property is concerned, the third respondent cannot have any objection, but at the same time, simultaneously, if the property of the third respondent is measured, for which, third respondent is ready and willing to pay the necessary fee, the actual boundaries to be demarcated between the property of the petitioner and the third respondent can be ascertained by the revenue authorities and accordingly, any dispute with regard to the alleged pathway between the properties can also be decided. Therefore, the learned counsel for the third respondent wants the revenue authorities to measure both the properties.

9.The learned Additional Government Pleader appearing for the respondents 1 and 2 would submit that, the revenue authorities will have no objection for measuring both the petitioner's property as well as the third respondent's property and in this regard, on a specified date to be fixed by the Tahsildar Office, both the petitioner and the third respondent shall come forward and give their co-operation to the revenue authorities to complete the measurement of both the properties.

10.I have considered the said submissions made by the learned counsel appearing for the parties and perused the materials placed before this Court.

11.In view of the said stand taken by the learned counsel appearing for the respective parties, this Court is inclined to pass the following order:-

(i) The first respondent *viz.*, Tahsildar, Kayathar Taluk, Tuticorin District, is hereby directed to measure the subject land of the petitioner as well as the third respondent, in Kayathar Taluk, Tuticorin District, which are adjacent properties and demarcate the boundaries of both the properties correctly and accordingly, lay a boundary stone on both the properties. It is made clear that by making measurement, the Tahsildar Office shall also ascertain whether there is a pathway as alleged by the parties concerned and if so, that can also be separately demarcated and measurement stones can be laid.

(ii) In this regard, if a summon is issued by the Office of the Tahsildar to the petitioner and the third respondent, on the said date, both the parties shall give their co-operation for completing the measurement work.

(iii) In this regard, if any fee to be paid by the parties, the same shall also be paid to the revenue authorities.

(iv) The aforesaid exercise shall be completed by the revenue authorities within a period of eight weeks from the date of receipt of a copy of this order.

With the aforesaid directions, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (RTI)

/ True Copy /

Sub Assistant Registrar(CS- )

smn2

To

1.The Tahsildar,
Campus of the Tahsildar Office,
Kayathar Taluk,
Tuticorin District.

2.The Taluk Head Surveyor,
Campus of the Tahsildar Office,
Kayathar Taluk,
Tuticorin District.



+1 CC to M/s.NIRANJAN S.KUMAR, Advocate
( SR-67147[F] dated 06/06/2019 )

+1 CC to M/s.R.MURALI, Advocate ( SR-67309[F] dated 07/06/2019 )

**W.P.(MD) No.8135 of 2019**
**06.06.2019**

ES/24.06.2019/4P/5C