



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 06.11.2019
CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

W.A. (MD) No.979 of 2019
and C.M.P. (MD) No.8849 of 2019

R.Rajamuthu ... Appellant/6th Respondent

-vs-

1.V.Ravichandran ... 1st Respondent/Writ Petitioner

2.The District Collector,
Collectorate,
Madurai - 20.

3.The Superintendent of Police,
Madurai District,
Madurai - 625 001.

4.The Thasildar,
Thirumangalam Taluk,
Taluk Office Building,
Madurai District.

5.The Deputy Superintendent of Police,
Tiruparankundram,
Madurai.

6.The Inspector of Police,
Austinpatti Police Station,
Tirunagar,
Madurai District.

... Respondents 2 to 6/Respondents 1 to 5

Writ Appeal filed under Clause 15 of Letters Patent against the order dated 15.07.2019, made in W.P.(MD) No.21574 of 2015, on the file of this Court.

Prayer in WP(MD) . 21574/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the respondent to consider his representation dated 24. 11.2015 within the stipulated time as fixed by this Honourable Court to direct the 2nd respondent / the Superintendent



of Police Madurai to give adequate Police Protection to the 3rd respondent / The Thasildar, Thirumangalam Taluk, Madurai for enabling him to make survey and measure and subsequently, allocate the land assigned by the Government to the petitioner.

For Appellant : Mr.S.M.Mohan Gandhi
For 1st Respondent : Mr.P.Ganapathi Subramanian
For Respondents 2 to 6 : Mr.S.Angappan
Government Advocate

J U D G M E N T

[Judgment of the Court was delivered by T.S.SIVAGNANAM, J.]

This Writ Appeal filed by the 6th respondent in W.P.(MD) No.21574 of 2015 is directed against the final order passed in W.P.(MD) No.21574 of 2015 on 15.07.2019.

2.The said Writ Petition was filed by the first respondent herein to direct the official respondents to consider his representation dated 24.11.2015 and direct the Superintendent of Police, Madurai District to give adequate police protection to the Tahsildar, Thirumangalam Taluk to enable him to conduct survey and to measure the property allotted to him by way of assignment. The learned Single Judge after taking note of the facts as pleaded by the first respondent/writ petitioner had directed the Tahsildar, Thirumangalam to measure the land which has been assigned to the first respondent/writ petitioner and others with the help of a Surveyor and demarcate the properties of the first respondent and other beneficiaries within a stipulated time. Police was directed to provide adequate police protection as and when required by the Tahsildar.

3.The appellant, who is the 6th respondent in the Writ Petition, before us contended that the appellant has objected to the Survey to be conducted by the Tahsildar at the behest of the first respondent on the ground that civil proceedings are pending at the instance of the appellant and the suit which has been filed was partly decreed and as against the disallowed portion appeal suit was preferred. The lower appellate Court remanded the matter back to the trial Court for fresh consideration and appeal has been preferred against the said judgment and the same is pending before this Court and an order of interim stay has been granted. Therefore, if survey is conducted appellant's right would be affected. On consideration of the said submission, the Court entertained the appeal and granted an order of interim stay for a limited period.

4.After reiterating the above submissions, the learned counsel appearing for the appellant submitted that there is one more sketch prepared by the Tahsildar and if the property of the appellant is



properly measured, then the discrepancy may not occur and more than one sketch may not be prepared. Therefore, he submitted that the official respondents shall await the out come of the civil proceedings.

5.The learned counsel appearing for the first respondent/writ petitioner would submit that the appellant has nothing to do with the property claimed by him. Though assignment has been granted in favour of the first respondent, the property has not been demarcated, which has necessarily to be done. Further, he would submit that the suit is one for bare injunction and not for declaration of title.

6.The learned Government Advocate appearing for the official respondents would submit that in terms of directions survey can be conducted and the survey can be monitored by the Revenue Divisional Officer and if the same is completed, it will give quietus to the entire controversy.

7.Admittedly, the property claimed by the appellant and the first respondent are Government properties and said to have assigned by the Government. Now, the dispute is where the property lies. If the Government assigns the land, they should identify the same. For that purpose survey is necessary. Even the suit filed by the appellant is one for declaration, ultimately it is for the Government authorities to identify the four boundaries of the property, which can be achieved only on survey. At best survey can be monitored by the Court. Further, in the suit filed by the appellant for declaration, the first respondent/writ petitioner is not a party. Therefore, in our considered view the findings rendered by the learned Writ Court touching upon the rights of the parties can very well be avoided and simple direction can be issued to survey the properties i.e., the entire extent. Since there are more than one sketch prepared by the Tahsildar on the earlier occasion, it would be on fitness of things, the entire survey will be monitored by the Revenue Divisional Officer of the concerned area.

8.Therefore, we dispose of the Writ Appeal by modifying the direction issued by the Writ Court and direct the Survey Authorities of the concerned Taluk to issue notice of the appellant as well as first respondent and other beneficiaries and conduct survey, which shall be monitored by the Revenue Divisional Officer of the area. In case, there is any encroachment found during the course of survey, the same shall be removed by following the due process of law i.e., after issuing notice. The appellant and the first respondent are directed to cooperate in the survey to be conducted. Based on the survey report, further action be taken in accordance with law. In the light of the above, the other findings rendered by the Court touching upon the merits of the matter stands vacated. It is made clear that we have a directed comprehensive survey, not only the first respondent but also the adjoining Government



property in which the appellant is stated to be occupied. Consequently, connected Civil Miscellaneous Petition is closed. No costs.

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// True Copy //

Sd/-

Assistant Registrar (CS-III)

Sub Assistant Registrar(CS)

sj

To

- 1.The District Collector,
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- 2.The Superintendent of Police,
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- 5.The Inspector of Police,
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Tirunagar,
Madurai District.

+1 CC to SPL GP (SR-96642[F] dated 07/11/2019)
+1 CC to Mr.S.M.MOHAN GANDHI, Advocate (SR-96776[F] dated
07/11/2019)
+1 CC to Mr.P.GANAPATHI SUBRAMANIAN, Advocate (SR-96848[F] dated
07/11/2019)

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