



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **15.10.2019**

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P(MD)No.21314 of 2019

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M.Sankar

... Petitioner

Vs.

1. The Tahsildar,
Periyakulam Taluk,
Periyakulam, Theni District.

2. The Firka Surveyor,
Devathanapatti,
Periyakulam Taluk,
Theni District.

3. Alagammal

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents 1 and 2 to effect the survey of the land bearing S.No.1548/1B2 to an extent of 1 Acre 40 cents situate at Devathanapatti Bit II Village within the Taluk limit of Periyakulam, Theni District based on the petitioner's petition dated 01.10.2018 made to the first respondent.

For Petitioner : Mr.K.Kannan

For Respondents : Mr.M.Pandiarajan

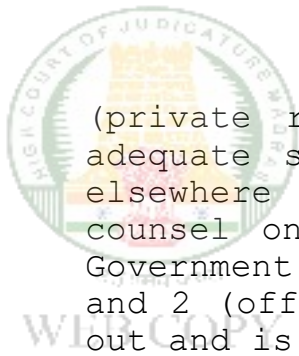
Additional Government Pleader
for R.1 and R.2

ORDER

Mr.K.Kannan, learned Counsel on record for writ petitioner expresses regret for not appearing in the previous listing yesterday (15.10.2019), owing to which this matter is listed under the caption 'FOR DISMISSAL' today. Learned Counsel tendered apology for non-appearance. Apology accepted.

2. Mr.M.Pandiarajan, learned Additional Government Pleader accepts notice on behalf of respondents 1 and 2 (official respondents).

3. To be noted, the third respondent is a private respondent. In the hearing, learned counsel for writ petitioner restricts his prayer to a plea of direction for disposal of representation within a time frame. From the abridged prayer it comes to light that an order, which is not adverse to the rights of third respondent



(private respondent) can be passed, after making sufficient and adequate safeguards in this regard which shall be set out *infra* elsewhere in this order. Therefore, with the consent of learned counsel on record for the writ petitioner and learned Additional Government Pleader, who accepts notice on behalf of respondents 1 and 2 (official respondents), main writ petition is taken up, heard out and is being disposed of.

4.The main writ petition now turns on a very narrow compass, as it is one seeking mandamus qua disposal of writ petitioner's representation dated 01.10.2018 wherein writ petitioner has sought measurement, survey and fixing of boundaries of land which according to writ petitioner belongs to him. To be noted, the representation uses the term “மேல்முறையீடு”, however a perusal of the representation reveals that his request is for localising the property. Be that as it may, writ petitioner undertakes to pay necessary fee and charges in this regard, if not already paid.

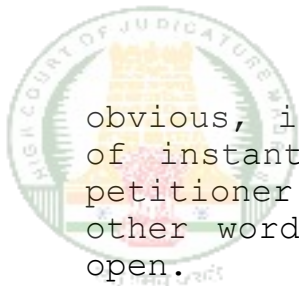
5. Notwithstanding several averments/ grounds raised / contentions urged in the affidavit filed in support of instant writ petition, learned counsel for writ petitioner abridges the scope of instant writ petition / prayer in instant writ petition and submits that it will suffice if the first respondent is directed to dispose of the aforementioned representation of the writ petitioner dated 01.10.2018, details of which have been alluded to supra.

6.Learned State Counsel submitted that the first respondent is the authority who is competent to consider the aforementioned representation dated 01.10.2018 made by the writ petitioner (page No.22 of the typed set of papers forming part of the case file).

7.The aforesaid representation dated 01.10.2018 shall be disposed of by the first respondent on its own merits and in accordance with law as expeditiously as possible and in any event, within a period of eight weeks from the date of receipt of a copy of this order.

8. It is made clear that in the course of the representation being considered by the first respondent, if the right of any other third party / parties or any other third party entity / entities is / are likely to be affected, the first respondent shall put on notice and give reasonable opportunity to such third party / parties or third party entity / entities, before disposing of the aforementioned writ petitioner's representation. It is also made clear with specificity that third respondent has to be put on notice and given a reasonable opportunity by the first respondent before taking a decision. To be noted, this is the safeguard qua rights of third respondent alluded to supra.

9.Though obvious, it is made clear that this Court has not expressed any opinion or view on the merits of the matter. Though



obvious, it is also made clear that petitioner abridging the scope of instant writ petition and prayer will not tantamount to writ petitioner giving up the contentions raised in the writ petition. In other words, all contentions raised in the writ petition are left open.

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10.The proceedings / order of disposal of aforementioned representation shall be communicated by the office of the first respondent to the writ petitioner and third respondent under due acknowledgement within seven working days from the date of proceedings / order ie., seven working days from date of disposal.

11.Instant Writ Petition is disposed of with the above directions. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Tahsildar,
Periyakulam Taluk, Periyakulam,
Theni District.

2.The Firka Surveyor,
Devathanapatti, Periyakulam Taluk,
Theni District.

+1 CC to Mr.K.KANNAN, Advocate (SR-92032[F] dated 15/10/2019)
+1 CC to SPL GP (SR-92114[F] dated 16/10/2019)

W.P(MD)No.21314 of 2019
15.10.2019

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