



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P (MD)No.21881 of 2019

S.Sasikumar

... Petitioner

vs.

1.The Tahsildar,
Thiruchuli Taluk,
Thiruchuli,
Virudhunagar District.

2.The Taluk Surveyor,
Thiruchuli Taluk,
Thiruchuli,
Virudhunagar District.

3.The Village Administrative Officer,
Pillaiyarkulam Group,
Thiruchuli Taluk,
Virudhunagar District.

4.The Inspector of Police,
Narikudi Police Station,
Narikudi, Virudhunagar District.

5.The Sub-Inspector of Police,
A.Mukkulam Police Station,
Virudhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the first respondent to survey and fixing boundaries of the petitioner's lands situated at Village of Sorankulam, (Avarnkulam), Pillaiyarkulam Group, Thiruchuli Taluk, Virudhunagar District bearing Survey Nos.99/10, 11, 12, 222/15, 220/7, 8, 221/10, 13, 14, 224/10, 9, 226/1, 11, 12, 14, 2, 8, 9, 238/3, 4, 1A, 1B, 5A, 6A, 7B, 8B, 161/3, 167/3, 231/10, 12, 233/4, 237/11, 7, 8 (Totally 37 Survey Numbers) and its Patta Nos.276 & 1081.

For Petitioner : Mr.R.Murugappan

For Respondents : Mr.Aayiram K.Selvakumar,
Additional Government Pleader.



ORDER

Mr.R.Murugappan, learned counsel on record for writ petitioner and Mr.Aayiram K.Selvakumar, learned Additional Government Pleader, who accepts notice on behalf of all five respondents are before this Court.

2.With consent of learned counsel on both sides, main writ petition is taken up, heard out and is being disposed of.

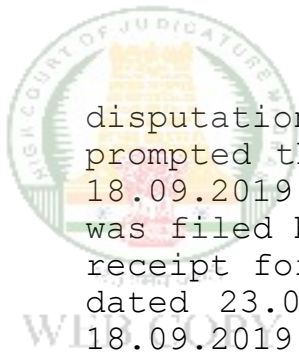
3.It is the case of the writ petitioner that lands comprised in 'certain survey numbers in Sorankulam Village (Avarankulam), Pillaiyarkulam Group, Thiruchuli Taluk, Virudhunagar District' (hereinafter referred to as 'said lands' for brevity) belongs to him. On this basis, writ petitioner has sent a representation dated 23.09.2019 (page 48 of the typedset of papers forming part of the case file) (hereinafter referred to as 'said representation' for brevity) said representation was addressed to the jurisdictional Tahsildar and writ petitioner has made a request to measure, survey and fix boundaries for said lands which according to writ petitioner belongs to him. On the face of it, this come across as an innocuous prayer. However, learned State Counsel, on instructions from the fifth respondent, who is present in Court, submits that there is an issue / dispute qua said lands between writ petitioner and one Kumaresan; that the writ petitioner gave a police complaint on 18.09.2019; that after enquiring both sides, writ petitioner who is the complainant, has given a letter dated 12.10.2019 stating that the issue / dispute qua said lands with Kumaresan will be sorted out in the civil Court. Case file was produced before this Court.

4.As far as this writ petition is concerned, what is of relevance is, this dispute / issue and police complaint have not been mentioned in the affidavit filed in support of the writ petition. There is no whisper about this criminal complaint in the writ affidavit.

5.With regard to the statement given on 12.10.2019 by the writ petitioner before the police officer, learned counsel for writ petitioner initially said that writ petitioner stands by the said statement. When this Court pointed out that there is no evidentiary value for a statement given to a police officer, learned counsel backtracked and submitted that the statement was obtained by force.

6.In any event, what is of relevance is, there is no whisper about all this in the affidavit filed in support of the writ petition.

7.Most importantly, the chronic of events / dates, in the <https://hcservices.ecourts.gov.in/hcservices/> of this Court, is tell-tale as there is no



disputation or disagreement that the alleged occurrence which prompted the criminal complaint given by the writ petitioner was on 18.09.2019. It is also submitted that a Criminal Original Petition was filed before this court for kick-starting the complaint and that receipt for same was given on 20.09.2019. The said representation is dated 23.09.2019. In other words, immediately after occurrence on 18.09.2019 and after the police complaint and receipt for the same on 20.09.2019 said representation has been given on 23.09.2019 on the teeth of the occurrence and complaint. It is therefore obvious that the representation is intended to create records. At this juncture, this Court does not express any opinion about the merits of the claim qua title as there is a dispute and the issues if at all have to be settled only in a civil Court.

8.Coming to this application ie., said representation on 23.09.2019, immediately after an issue / dispute qua said lands with Kumaresan and there being no mention about these events in the writ affidavit, leaves much to be said.

9.What is of importance is, it is submitted that said Kumaresan and writ petitioner are cousins and Kumerasan has not been arrayed as co-respondent in the instant Writ Petition.

10.Therefore, it is obvious that it is an attempt to have some revenue records created on the teeth of and close on the heels of some dispute between writ petitioner and his cousin qua said lands.

11.Even if writ petitioner has a legal right, the same has to be asserted and decided only by an appropriate jurisdictional civil Court.

12.For all the aforesaid reasons, considering the factual matrix of the instant case and considering the nature of the affidavit filed in support of the writ petition, this Court is not inclined to accede to the prayer of the writ petitioner and instant Writ Petition is dismissed.

13.Though obvious, it is made clear that if writ petitioner or his cousin approaches the jurisdictional civil Court, the jurisdictional civil Court shall adjudicate upon the issue without being influenced / untrammelled by contents of this order. No costs.

Sd/-

Assistant Registrar (Writs)

// True Copy //

Sub Assistant Registrar(CS)



To

1.The Tahsildar,
Thiruchuli Taluk,
Thiruchuli,
Virudhunagar District.

2.The Taluk Surveyor,
Thiruchuli Taluk,
Thiruchuli,
Virudhunagar District.

3.The Village Administrative Officer,
Pillaiyarkulam Group,
Thiruchuli Taluk,
Virudhunagar District.

4.The Inspector of Police,
Narikudi Police Station,
Narikudi, Virudhunagar District.

5.The Sub-Inspector of Police,
A.Mukkulam Police Station,
Virudhunagar District.

+1 CC to M/s.R.MURUGAPPAN, Advocate (SR-92777[F] dated 18/10/2019)

+1 CC to M/s.SPL GP (SR-93115[F] dated 18/10/2019)

W.P (MD) No.21881 of 2019
17.10.2019

JMN(30.10.2019) 4P : 8C