



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 03.12.2019
CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.(MD)No.25726 of 2019

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T.Pitchaiammal

... Petitioner

vs.

- 1.The District Collector,
Madurai District,
Collectorate Buildings,
Madurai District.
- 2.The Tahsildar,
Office of the Tahsildar,
Peraiyur Taluk, Madurai District.
- 3.The Surveyor,
Peraiyur Taluk, Madurai District.
- 4.The Superintendent of Police,
Madurai District.
- 5.The Inspector of Police,
Peraiyur Police Station,
Madurai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the third respondent herein to consider the petitioner's application, dated 30.09.2019 with the help of the fifth respondent.

For Petitioner : Mr.V.Ganapathy Subramanian

For Respondents : Mr.A.K.Baskara Pandian
Special Government Pleader

ORDER

This Writ Petition is filed for issuing a Writ of Mandamus to direct the respondents to consider the petitioner's application, dated 30.09.2019 with the help of fifth respondent. The fifth respondent is the Inspector of Police, Peraiyur Police Station.

2.By consent of both parties, the Writ Petition is taken up for final disposal at the stage of admission itself.

3.The petitioner claims title to the property measuring an extent of 90 cents of vacant land out of total extent of 2 acres 19

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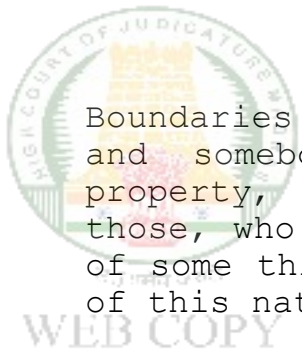
cents in S.No.87/2H1B in Elumalai Village, Madurai District. The petitioner states that he is in possession and enjoyment of the property. The petitioner further states that he wants to know his boundary of his land and therefore, made a representation, dated 05.05.2015 to the third respondent. Since the third respondent did not take any action, the petitioner earlier filed a Writ Petition in W.P.(MD)No.23489 of 2016 and this Court by order, dated 02.12.2016, disposed of the Writ Petition in the following lines:

"3.According to the petitioner, she is the owner of the property in Survey No.87/2H at Elumalai Village, Peraiyur Taluk, Kesapatti Union, Elumalai Sub-Division, T.Periyakulam, Madurai District to the extent of 90 cents land on Northern side from 2 acres 19 cents. She filed an application before the first respondent on 05.05.2015 to measure the proeprty and issue patta and also paid necessary fees. So far no action has been taken by the first respondent. Hence, the petitioner has filed the present Writ Petition.

4.Since the petitioner's application is pending with the respondents for more than one year, the respondents 1 and 2 are directed to measure the petitioner's property and fix the boundaries, as per the revenue records, after issuing notice to the petitioner and the neighbouring land owners, with reference to the revenue records and the petitioner's title deeds, within a period of twelve weeks from the date of receipt of a copy of this order."

4.The petitioner has not disclosed the fact, as to why police protection is required for surveying the land. The very request of the petitioner to seek survey in the presence of fifth respondent or with the protection of police official indicate that there is a rival claim. From the records, it is seen that the Tahsildar concerned in his communication to the Deputy Superintendent of Police, dated 31.10.2017, mentioned that on surveying the land, one Arunachalam, who is also interested in the land, has prevented them from surveying the land. It is in the said circumstances, this Court is not inclined to entertain the Writ Petition for surveying the land.

5.The petitioner on the basis of his document may seek sub division of his property, after his name is found in the joint patta. The Revenue Standing Order provide guidelines for sub division of survey fields on the basis of the documents of title. There is no scope for invoking the provisions of Tamil Nadu Survey and Boundaries Act to fix the boundary of the land when there is rival claim or dispute, which has to be settled in the manner known to law. The petitioner has approached this Court earlier and now on a wrong premises and on a erroneous understanding of the Survey and



Boundaries Act. Having regard to the fact that there is a dispute and somebody has serious objection regarding measurements of property, the petitioner cannot get any relief without impleading those, who are obstructing the survey. When there is a rival claim of some third parties, this Court may not entertain a Writ Petition of this nature without hearing the persons interested.

6.Hence, giving liberty to the petitioner to file a fresh Writ Petition by impleading necessary parties, this Writ Petition is dismissed. In case, an application for sub division of survey fields is filed on the basis of documents of title and previous revenue records and a sub division is possible without disturbing the previous entries in revenue records, the same may be entertained in the manner known to law and the respondents may undertake such sub division in the manner known to law after giving sufficient opportunity to the petitioner or any other rival claimant whose claim has legal basis. If there is dispute with regard to possession, the petitioner or anyone else cannot seek assistance of revenue officers without a declaration from Civil Court. No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The District Collector,
Madurai District,
Collectorate Buildings,
Madurai District.

2.The Tahsildar,
Office of the Tahsildar,
Peraiyur Taluk, Madurai District.

3.The Surveyor,
Peraiyur Taluk, Madurai District.

4.The Inspector of Police,
Peraiyur Police Station,
Madurai District.

+1 CC to Mr.V.GANAPATHY SUBRAMANIAN, Advocate (SR-103129[F] dated 03/12/2019)

+1 CC to SPL GP (SR-103416[F] dated 04/12/2019)

W.P. (MD)No.25726 of 2019

03.12.2019