



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.12.2019

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P.(MD)No.25734 of 2019

WEB COPY

S.Balachandran

... Petitioner

vs.

1.The District Collector,
Madurai, Madurai District.

2.The Tahsildar,
Thiruparankundram Taluk,
Madurai District.

3.The Firka Surveyor,
Thiruparankundram Taluk Office,
Madurai District.

4.The Village Administrative Officer,
Nilaiyur, Madurai District.

5.P.Angaiyarkanni

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the respondents 2 to 4 herein to postpone the survey and demarcation in respect of the land bearing Survey No.45/26 situated in Nilaiyur Bit I Village, Thiruparankundram Taluk, Madurai District, in the light of the petitioner's representation, dated 21.11.2019.

For Petitioner :Mr.A.Saravanan

For R1 to R4 :M/S.B.Bhagavathy,Government Advocate

O R D E R

This Writ Petition is filed for issuing a Writ of Mandamus to direct the respondents 1 to 4 to postpone the survey and demarcation in respect of land bearing S.No.45/26 situated in Nilaiyur Bit 1 Village, Thiruparankundram Taluk, Madurai District in the light of petitioner's representation, dated 21.11.2019.

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

3.The petitioner claims ownership over few plots of land measuring an extent of 12 acres in S.No.45/1 Nilaiyur Bit 1 Village, Thiruparankundram Taluk, Madurai District. The petitioner has filed a suit in O.S.No.450 of 2017 on the file of the Subordinate Court, Thirumangalam, against the fifth respondent. The suit was for bare injunction restraining the defendants in the suit



from interfering with the peaceful possession and enjoyment of the land by the petitioner. It is also admitted that the Civil Court has dismissed the suit as against the petitioner herein in respect of land in S.No.45/26, holding that the petitioner has not established his possession over the land.

WEB COPY

4.It is to be seen that the suit is not for declaration of title and therefore, the Civil Court, while dismissing the suit in O.S.No.450 of 2017, has rendered a specific finding that the title of the petitioner cannot be gone into in the suit. In such circumstances, the petitioner's title is not decided in the suit. Be that as it may, the suit for bare injunction was dismissed as against the petitioner. Since an appeal is pending as against the judgment and decree in O.S.No.450 of 2017, the petitioner seems to have raised an objection before the second respondent with regard to the fixing of boundaries and survey of lands in S.No.45/26. The request of the petitioner has been accepted and the petitioner and the rival claimant, namely, the fifth respondent, were directed to appear before the Tahsildar, the second respondent herein, by a communication, dated 15.11.2017.

5.It is in these circumstances, the petitioner has approached this Court with the above prayer. Going by the facts narrated above, this Court is not inclined to entertain the Writ Petition for the simple reason that the rights of parties has to be decided only by the Civil Court on the basis of documents of title and other material and evidence. It is admitted by the petitioner that the Civil Court dismissed the suit for bare injunction by a judgment and decree, dated 13.02.2017 in respect of one of the items of property, in which the fifth respondent also claims interest. The appeal is not filed in time and therefore, the petitioner has also filed a petition to condone the delay in filing the appeal. The petitioner's right has not been established before the Civil Court.

6.In the said circumstances, the petitioner's objection before the revenue officials cannot be sustained. It is open to the petitioner to approach the appellate Court by necessary application. The decision of this Court in this Writ Petition shall not bind the Civil Court for passing appropriate orders, whenever an issue comes regarding right and title to the property. Since the petitioner has not filed any other independent document, this Court cannot entertain this Writ Petition. Accordingly, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)



1.The District Collector,
Madurai, Madurai District.

2.The Tahsildar,
Thiruparankundram Taluk,
Madurai District.

3.The Firka Surveyor,
Thiruparankundram Taluk Office,
Madurai District.

4.The Village Administrative Officer,
Nilaiyur, Madurai District.

+1 CC to M/s.A.SARAVANAN, Advocate (SR-103122[F] dated 03/12/2019)

+1 CC to M/s.SPL GP (SR-103270[F] dated 04/12/2019)

W.P. (MD)No.25734 of 2019

03.12.2019

SMA/30/12/2019/3P/7C