

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 12.03.2020	Delivered on 17.03.2020
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CORAM:

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.16216 of 2019

and

WMP Nos.15927 & 32454 of 2019

G.D.Rajkumar

..Petitioner

.v.

1.The Director of Survey and Land Records,
Office of the Directorate of Survey &
Land Records,
Survey House,
Chepauk,
Chennai.

2.District Revenue Officer,
Collectorate Building,
Coimbatore 641 018.

3.The Assistant Director of Survey,
District Survey and Land Records
Department,
Collectorate Building,
Coimbatore-641 018.

4.The Tahsildar (North),
Coimbatore North Taluk Office,
Balasundaram Road,
Coimbatore-18.

5.M/s.Sri Krishna I-Tech and Management
Solutions Private Limited,
Represented by its Managing Director,
Ms.S.Malarvizhi,
No.6, Vivekananda Road,
Ramnagar, Coimbatore-18.

.Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pf the 1st respondent pertaining to proceedings in Na.Ka.No.512675/2019 (LS) dated 29.05.2019 confirming the order dated 10.08.2018 passed by the 2nd respondent in his proceedings Ne.Mu.17298/2017/E1 and quash the same as highly arbitrary and consequently direct the measurements to be restored status quo ante prior to 17.06.2015, by carrying out necessary corrections in tghe FMB

sketch & field map relating to lands in T.S.No.1051/1 and 1054/1, Ward 10 Block 14, Krishnarayapuram Village, Coimbatore North Taluk and other revenue records maintained by the respondents

For Petitioner : Mr.AR.L.Sundaresan,
Senior Counsel
for Mr.G.Maniprabhu

For R 1 to R 4 : Mr.J.Purushothaman
Additional Government Pleader

For R 5 : Mr.N.Senthil Kumar

O R D E R

The present Writ Petition has been filed challenging the order passed by the 1st respondent in his proceedings dated 29.05.2019, confirming the order passed by the 2nd respondent in his proceedings dated 10.08.2018, wherein, the order passed by the 3rd respondent dated 23.06.2017, was set aside and for a consequential direction to the respondents to restore the records as it stood prior to 17.06.2015, by making the necessary corrections.

2.The case of the petitioner is that he is the absolute owner of the property situated in T.S.No.1051/1 and 1054/1 at Krishnarayapuram Village, Coimbatore North Taluk. According to the petitioner, the property is bounded on all four sides by Compound Wall. The 5th respondent started claiming ownership over the Compound Wall on the Eastern side property. The 5th respondent had also given representations to the 4th respondent in this regard.

3.The petitioner applied for field map Sketch and he noticed that the measurement of the Southern boundary of the subject property was corrected as follows:

Sl.No	T.S.No.	Original Entry	Corrected Entry
1.	1054/1	21 Mtrs.	20 Mtrs.
2.	1054/2	68.1 Mtrs.	69.1 Mtrs.

4.The petitioner immediately filed a representation/appeal before the 3rd respondent requesting the 3rd respondent to rectify the correction in the records and restore it to the original position.

5.The 3rd respondent by his proceedings dated 23.06.2017, after considering the earlier records and after considering the report submitted by the Revenue Inspector,

cancelled the corrections and directed the original entries to be restored. Aggrieved by the same, the 5th respondent filed an appeal before the 2nd respondent and the 2nd respondent by an order dated 10.08.2018, set aside the order of the 3rd respondent and this was further confirmed by the 1st respondent in his proceedings dated 29.05.2019. Thereby, the corrections that were made in the records was confirmed by the said orders. Aggrieved by the same, the present writ petition has been filed before this Court.

6.Mr.AR.L.Sundaresan, learned Senior Counsel appearing on behalf of the petitioner submitted that the original Notification was made under Section 13 of the Tamil Nadu Survey and Boundaries, Act, 1923 [hereinafter referred as "the Act"], on 22.2.2005 and if anyone is aggrieved by the same, they can only institute a suit within three years from the date of Notification to set aside or modify the determination of any boundary and only thereafter, alteration can be made in the record. The learned Senior Counsel submitted that based on the representation made by the 5th respondent, the 4th respondent has proceeded to make the corrections in the revenue records behind the back of the petitioner. Therefore, the petitioner was constrained to make a representation to the Appellate Authority, who is the 3rd respondent and the 3rd respondent based on the original records and the Survey conducted on the property, restored the original entry. The learned Senior Counsel submitted that if the 5th respondent was aggrieved by the same, he should have filed a suit under Section 14 of the Act and agitated the matter and instead chose to further appeal before the 2nd respondent. The learned Senior Counsel submitted that the 2nd respondent has dealt with this issue like a Civil Court by analyzing all the earlier documents and has set aside the order passed by the 3rd respondent and confirmed the corrections made in the records. This was further confirmed by the 1st respondent.

7.The learned Senior Counsel submitted that the corrections took place only after the property was settled in favour of the 5th respondent. In order to substantiate the same, the learned Senior Counsel submitted a copy of the Town Survey Sketch and it is found that based on the proceedings dated 17.06.2015, the correction has been made in the records and it is stated that this correction is made due to conversion error. The learned Senior Counsel submitted that this correction was done behind the back of the petitioner.

8.The learned counsel appearing on behalf of the 5th respondent submitted that the 5th respondent is tracing the title from the year 1932 onwards and it is consistently seen that the property measured 1.88 acres with all four sides surrounded by Compound Walls. The learned counsel specifically pointed out the boundary on the Southern side running East to west which measures 268 feet. The learned

counsel submitted that this measurement is consistently found in all the documents up to the Settlement Deed that was executed in favour of the 5th respondent. The learned counsel submitted that this 268 feet is distributed among the two T.S.Nos. viz; 1054/2 - 227 feet and 1051/2 - 41 feet. This according to the learned counsel works out to 69.1 metres and 20 metres respectively. The learned counsel submitted that when the entries were made in the records, it was entered in terms of metres instead of feet and therefore a mistake was made. This mistake has been corrected and it has been confirmed by the 2nd and 1st respondents after going through the entire documents.

9. The learned counsel for the 5th respondent further submitted that the petitioner has already filed a suit in O.S.No.56/2019 against the 5th respondent seeking for the relief of declaration of title and other consequential reliefs with regard to the very same property and therefore he has to establish his right and title over the property in the pending suit. The learned counsel submitted that there are absolutely no grounds to interfere with the orders passed by the 2nd and 1st respondents.

10. The Official respondents have filed a counter affidavit in this case. It is stated that the final Notification under Section 13 of the Act, was published in the gazette on 22.02.2005. Based on the representation made by the 5th respondent, a survey was conducted by the Town Sub Inspector of survey and it was found that the measurements noted in the Block Map requires correction. Accordingly, the correction was carried out in accordance with the Act and Rules.

11. The learned Government Advocate appearing on behalf of the respondents submitted that there was a conversion error when the entries were originally made and the same was corrected subsequently. The learned counsel further submitted that the petitioner has already filed a suit before a Competent Court with regard to the very same property and it is for the petitioner to establish his right and title over the property based on his title documents. The learned counsel submitted that there are absolutely no grounds to interfere with the orders passed by the 2nd and 1st respondents.

12. This Court has carefully considered the submissions made on either side and the materials available on record.

13. The Notification was published under Section 13 of the Act, in the Coimbatore District gazette on 22.02.2005. T.S.No.1051 and 1054 was already included in the Notification. The Notification itself makes it very clear that if any person is aggrieved by the determination of any boundary, should

institute a suit within a period of three years from the date of the Notification, under Section 14 of the Act, to set aside or modify the determination of the boundary. This is also clear from a reading of these two provisions. The law in this regard is well settled and useful reference can be made to the judgment of this Court in K.Chinnasamy .v. The Principal Secretary reported in 2010 (1) CWC 448.

14.It is seen that the 5th respondent became the owner of the property by virtue of a Settlement Deed dated 22.04.2013. The 5th respondent had made a representation to the authorities to the effect that the Southern boundary comprised in T.S.No.1054/1 and 1054/2 contains wrong measurement and had sought for a correction. Survey was conducted by the Taluk Deputy Inspector of survey and thereafter by proceedings dated 17.06.2005, the corrections were made as tabulated supra on the ground that there is a conversion error. This process was undertaken without notice to the petitioner

15.This correction came to the knowledge of the petitioner and therefore the petitioner filed a representation before the 3rd respondent. The 3rd respondent conducted an enquiry. He found that the corrections do not reflect the correct state of affairs on the ground, based on the report of the Town Sub Inspector of survey. The 3rd respondent also found that there was no requirement for such a correction and he restored the original entry in the records. By undertaking this exercise, the 3rd respondent has only restored the Status quo as it prevailed even before the 5th respondent purchased the property. The gazette publication was made on 22.02.2005 and the 5th respondent became the owner of the property only in the year 2013.

16.At this stage, it was very well open for the 5th respondent to have filed a suit before the Competent Court challenging such determination of boundary. However, the 5th respondent did not chose to go before a Civil Court and rather preferred an appeal before the 2nd respondent.

17.The 2nd respondent virtually took over the role of a Civil Court. The 2nd respondent discussed in his order each and every document and has found that the correction made in the records was correct and it was done only due to conversion error. This was further confirmed by the 1st respondent.

18.A conversion error will happen only where one metric system is converted into another metric system. For instance, when a metre is converted into feet and vise versa. In the present case, the documents had reflected the measurement on feet basis and according to the respondents, when this was converted into metres, there was a mistake. This reasoning given by the 2nd respondent is not acceptable.

A look at the blue print sketch reveals the fact that the original measurement was recorded in terms of metres and the correction was also done in terms of metre. It is not known as to why for T.S.No.1054/2, it must be increased to 69.1 metres and for T.S.No.1054/1, it must be reduced to 20 metres. This exercise was done by the 2nd respondent by analyzing the documents of both the parties and whereas the 3rd respondent has taken into consideration the survey report of the Town Sub Inspector of survey as it prevailed on the ground.

19. In the considered view of this Court, original correction itself should not have been done without putting the petitioner on notice. Since the entire dispute revolves around the determination of the boundary which has already been published in the gazette, the Civil Court would have been the appropriate forum to decide the same and ultimately the corrections could have been made in the records based on the judgment and decree of the Civil Court. The 2nd respondent ought not to have ventured to take the role of a Civil Court and it should not have been confirmed by the 1st respondent.

20. The proceedings of the 3rd respondent merely restored the original position as it prevailed even before the 5th respondent became the owner of the property. A Civil Suit is now pending in OS.No.56/2019 and it is a substantive suit filed by the petitioner against the 5th respondent seeking for the relief of declaration of title and other consequential reliefs. The Civil Court will have an opportunity to go into the entire title of both the parties through oral and documentary evidence. It goes without saying that the Civil Court will decide the issue independently without being influenced by any of the orders passed by the respondents and the entries made in the records. The Civil Court is not bound by the entries made and notified under Section 13 of the Act.

21. In view of the above discussion, this Court has no hesitation to interfere with the impugned order passed by the 2nd respondent and which was further confirmed by the 1st respondent and accordingly, both these orders are quashed. The records shall be restored to the original position as per the orders of the 3rd respondent dated 23.06.2017. It will be left open to the parties to agitate their right title and interest over the property in the pending Civil Suit in O.S.No.56/2019, on the file of the Additional District Court, Coimbatore. The Civil Court will independently consider the claim without being influenced by any of the orders passed by the respondents and even the orders passed in this writ petition will not have a bearing while the Civil Court decides the suit.

22. Learned counsel appearing on behalf of the fifth respondent requested this Court to direct the Civil Court to complete the proceedings within a time frame. There shall be a direction to the Additional District Court, Coimbatore, to

conclude the proceedings in O.S. No. 56 of 2019 within a period of six months from the date of receipt of copy of this order.

This writ petition is allowed accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/--
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

KP

To

1.The Director of Survey and Land Records,
Office of the Directorate of Survey &
Land Records,
Survey House,
Chepauk,
Chennai.

2.District Revenue Officer,
Collectorate Building,
Coimbatore 641 018.

3.The Assistant Director of Survey,
District Survey and Land Records
Department,
Collectorate Building,
Coimbatore-641 018.

4.The Tahsildar (North), सतयमेव जयते
Coimbatore North Taluk Office,
Balasundaram Road,
Coimbatore-18.

5.The Additional District Judge,
Additional District Court,
Coimbatore.

+ 2 CC's to Mr. SenthilKumar (22437 & 23473)

+ 1 CC to Mr. Mani Prabu 24180

+ 1 CC to Govt. Pleader 24132

W.P.No.16216 of 2019

MR C.O.
MRP 17.03.2020