



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :22.09.2020

CORAM

THE HONOURABLE MR.JUSTICE **D.KRISHNAKUMAR**

W.P. (MD) No.7408 of 2020

R.Soundararajan

...Petitioner

Vs.

1.The District Collector,
Theni District.

2.The Sub-Divisional Magistrate cum
Sub Collector, Uthamapalayam.

3.The Tahsildar,
Bodinayakanur Taluk Office,
Bodinayakanur, Theni District.

4.The Firka Surveyor,
Kodangipatti, Bodinayakanur Taluk,
Theni District.

5.The Village Administrative Officer,
Uppukottai Village, Bodinayakanur Taluk,
Theni District.

6.C.Nagendran

...Respondents

[R6 is impleaded vide Court order dated 08.09.2020 in W.M.P. (MD) No.9262 of 2020 in W.P. (MD) No.7408 of 2020]

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents 3 to 5 to survey the land measuring about 44.46 cents situated at Uppukottai Village, Bodinayakanur Taluk, Theni District comprised in S.No.366/7c, by metes and bounds and demarcate the lands, make subdivisions, by separating the lands sold by the petitioner from the lands retained by the petitioner, by considering the application filed by the petitioner on 04.06.2020 on the file of the third respondent.



For Petitioner : Mr.G.Vanjinathan
For R1 to R5 : Mr.C.Ramesh,
Special Government Pleader
For R6 : Mr.R.Maheswaran

WEB COPY

ORDER

This Writ Petition is filed seeking for a direction to direct the respondents 3 to 5 to survey the land measuring to an extent of 44.46 cents, situated at Uppukottai Vilage, Bodinayakanur Taluk, Theni District comprised in S.No.366/7c, by metes and bounds and demarcate the lands, make subdivisions, by separating the lands sold by the petitioner from the lands retained by the petitioner, by considering representation dated 04.06.2020.

2. The learned counsel appearing for the petitioner submitted that the petitioner purchased a land measuring to an extent of 44.46 cents situated at Bodinayakanur Taluk, Theni District, comprised in S.No.366/c from one Amudha vide sale deed dated 02.03.2020, registered document No.1851 of 2020. He also sold the part of the land measuring to an extent of 10 cents to one Pandiaraj, by registered sale deed dated 20.05.2020, in document No.2770 of 2020. Further, the property measuring an extent of 3 cents was sold to Arun Soundar vide sale deed, dated 10.06.2020, by its registered document No.3453 of 2020, the petitioner has retained the remaining 31.46 cents land in the aforesaid property. On 04.06.2020, the petitioner approached the authority for survey the land and paid the necessary charges. But the authority has not conducted survey in the aforesaid land as requested by the writ petitioner.

3.The learned counsel appearing for the sixth respondent filed a counter-affidavit, wherein it has been stated that the sixth respondent's brother filed a suit in O.S.No.166 of 2020 for declaration and the same is pending before the Sub Court, Theni. He also submitted that since the suit is pending, the writ petition is not maintainable and the same is liable to be dismissed.

4.In the light of the aforesaid submission made by the learned counsel on either side, the suit in O.S.No.166 of 2020 on the file of the Sub Court, Theni, for declaration, is pending and the same has not been disputed by the parties, unless the said suit is reached finality, the relief sought for by the petitioner cannot be granted to measure and fix the boundaries in the aforesaid property.



5. Accordingly, this writ petition is dismissed. No costs. It is open to the petitioner to workout his remedy before the civil forum.

Sd/-

Assistant Registrar(AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

das

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The District Collector, Theni District.
- 2.The Sub-Divisional Magistrate cum Sub Collector, Uthamapalayam.
- 3.The Tahsildar,
Bodinayakanur Taluk Office,
Bodinayakanur, Theni District.
- 4.The Firka Surveyor,
Kodangipatti, Bodinayakanur Taluk,
Theni District.
- 5.The Village Administrative Officer,
Uppukottai Village, Bodinayakanur Taluk,
Theni District.

+1 CC to M/s.R. MAHESWARAN, Advocate (SR-17671[F] dated 22/09/2020)

W.P. (MD) No.7408 of 2020
22.09.2020

AL(CO)
TR(06.10.2020) 3P 7C