



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE S. VAIDYANATHAN

W.P. (MD)No.8962 of 2020

C.Pragalathan
S/o.Chellaiah Pillai
Door No.290, Nangavaramthottam,
Race Course Road, Kottapattu Village,
Tiruchirapalli (East) Taluk,
Tiruchirapalli-620 023
Rep. by his Power Agent
C.Balaji, S/o.Chellappa
9/75, Peramurkudi Street
Ayyampalayam Village
Musiri Taluk, Tiruchirapalli District-621 202. ... Petitioner

-vs-

1.The Commissioner
Tiruchirapalli City Municipal Corporation
Bharathidasan Salai, Contonment
Tiruchirapalli-620 001.

2.The Town Sub Inspector of Survey
Tiruchirapalli City Municipal Corporation
Ariyamangalam Zone,
No.18, Palakkarai Main Road, Palakarai,
Tiruchirapalli-620 001.

3. S.A.Xavier

4. Dhanam Xavier ... Respondents

**(R3 & R4 impleaded vide Order dated 15.10.2020
made in WMP (MD)No.11412 of 2020)**

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the 2nd respondent to survey and measure the property comprised in New T.S.No.3, 4 & 5, New Ward No.A.E., Block No.5 situated at Tiruchirappalli Corporation, Ariyamangalam Zone, Kotappatu Village, Tiruchirappalli East Taluk, Tiruchirappalli District within a specified time frame that may be fixed by this Court.

For Petitioner : Mr.Shangar Murali
For R1 & R2 : Mr.N.S.Karthikeyan, Standing Counsel
For R3 & R4 : Mr.K.R.Laxman

O R D E R

This Writ Petition has been filed, seeking for a direction to the 2nd respondent to survey and measure the property comprised in

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New T.S.No.3, 4 & 5, New Ward No.A.E., Block No.5 situated at Tiruchirappalli Corporation, Ariyamangalam Zone, Kotappatu Village, Tiruchirappalli East Taluk, Tiruchirappalli District.

2. It is the case of the petitioner that there are encroachments in the Public road and that plots mentioned in the Writ Petition have got to be measured, more particularly, T.S.Nos.3 to 5, taking note of the sale deeds dated 15.07.2006 and 07.05.2007 respectively. It is further case of the petitioner that three feet road has been encroached by the impleaded respondents, namely, R3 & R4 and that the original sale deed refers to 23 feet on one side, whereas in the subsequent sale deed, it has been mentioned as 20 feet. The exact encroachment of the public road will come to light only after a detailed survey, so that the encroachment could be removed and the width of the road / public place may be restored.

3. Learned counsel for the impleaded respondents contended that the petitioner has no *locus standi* to ask for survey of their land, as the FMB sketch shows that there are six meter road (approximately less than 20ft road). He further contended that there was a rectification deed by altering the 23ft road into 20ft road, which has not been brought to the notice of this Court by the Writ Petitioner. He also contended that in case the petitioner wants to ascertain the existence of 20ft road, it is necessary to survey the area situated in S.No.36 also, wherein a College is functioning, as none of the person will be entitled to encroach the college properties. It was stated by the learned counsel for R3 & R4 that there is an FIR pending against the Writ Petition for illegal demolition of the property and this Court has imposed a cost of Rs.75,000/- payable to the respondents 3 and 4.

4. Learned Standing Counsel appearing for R1 and R2 represented that the property in S.Nos.4 and 5 belongs to a different person and the same does not belong to the Writ Petitioner.

5. Heard the learned counsel for the parties.

6. At the first blush, the scope of the prayer is very limited and this Court does not want to dwell upon the merits of the matter, as it will affect the rights of either parties. The only plea raised on the side of the Respondents 3 and 4 is that survey should be conducted along with S.No.36. The question as to whether there is a valid rectification deed executed or not and whether the width of the road is 20ft. or 23ft., need to be ascertained by the Surveyor. Therefore, the Respondents 1 & 2 / Corporation are directed to conduct survey in S.Nos.3 to 5, taking note of FMB sketch / layout / sale deed mentioned supra and depending upon the outcome of survey, it is open to the parties to redress their grievances before the Appropriate Forum. Since the Writ Petitioner is going to be benefited by the survey, the entire expenses for survey shall be borne by the Writ Petitioner. It is needless to mention that the



persons, who are likely to be affected by the survey should be heard.

7. Though the impleaded parties wanted to survey a different land in that layout, this Court is not inclined to do so, as it is not a PIL and in case of PIL alone, the Court is empowered to widen the scope and grant other relief in the interest of justice. If any party concerned requests documents by filing necessary application under RTI Act, the authorities are bound to furnish the same and Section 8 of the RTI Act cannot be quoted for denial of the same to the concerned parties.

8. It is to be noted that whenever the authorities are relying upon the sale deed, they have took into the revenue records, more so, the earliest document available, so that the sketch / layout would show the actual area and the width of the road.

9. With the above observation and direction, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

1.The Commissioner

Tiruchirapalli City Municipal Corporation
Bharathidasan Salai, Contonment
Tiruchirapalli-620 001.

2.The Town Sub Inspector of Survey

Tiruchirapalli City Municipal Corporation
Ariyamangalam Zone,
No.18, Palakkarai Main Road, Palakkarai,
Tiruchirapalli-620 001.

+1 CC to M/s.SHANGAR MURALI, Advocate (SR-20410[F] dated 16/10/2020)

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15.10.2020

SV2 (CO)

AP(02/12/2020) 3P 4C

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