



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :25.08.2020

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

W.P. (MD) No.9904 of 2020

G.Sethurajan

...Petitioner

Vs

1.The District Collector,
Ramanathapuram District,
Ramanathapuram.

2.The Tahsildar,
Keelakkarai Taluk,
Ramanathapuram District.

3.The Firka Surveyor,
Thiruppullani,
Ramanathapuram District.

...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 pertaining to the order passed by the 2nd respondent in Na.Ka.S1/1920/2020 dated 09.07.2020 and quash the same as illegal and consequently direct the 2nd respondent to survey and measure the land in Survey No.214/9 with an extent of 2.15 ares in Utharavai Village, Velipattinam Sub-Division, Konthakottai Group, Keelakkarai Taluk, Ramanathapuram District, based on the petitioner's representation dated 09.12.2019.

For Petitioner : Mr.C.Ezhilarasu

For Respondents : Mr.C.Ramesh
Special Government Pleader

ORDER

Challenging the order passed by the 2nd respondent in Na.Ka.No.S1/1920/2020 dated 09.07.2020, the present writ petition has been filed.

2.According to the petitioner, he purchased the property in S.No.214/9 situated at Utharavai Village, Velipattinam Sub Division,



Konthakottai Group, Keelakkarai Taluk, Ramanathapuram District. Thereafter, he made a representation dated 09.12.2019 to the respondents to survey and fix the boundaries for the said property. So far, no action has been taken and accordingly, he has filed W.P. (MD) No.2153 of 2020 before this Court.

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3.In the said writ petition, the learned Additional Government Pleader appearing for the respondents therein submitted that the aforesaid land has been classified as "Theervai Yerpatta Tharisu" and this Court by order dated 27.07.2019, directed the 2nd respondent therein to communicate the aforesaid fact to the petitioner. Thereafter, the 2nd respondent had issued the impugned notice in Na.Ka.S1/1920/2020 dated 09.07.2020 to the petitioner stating that the said land belongs to the Government. Challenging the same, the petitioner is before this Court.

4.The learned counsel appearing for the petitioner would submit that in respect of the disputed property, a suit in O.S.No.421 of 1992 on the file of the District Court, Ramanathapuram, filed by one Karmegam for declaration and permanent injunction was decreed in favour of the plaintiffs on 31.08.1995. Challenging the said judgment and decree, the petitioner herein and others have filed an appeal in A.S.No.28 of 1999 before the Principal District court, Ramanathapuram and the same has been allowed on 20.07.2000 in favour of the petitioner and others. However, without considering the same, the 2nd respondent had issued the impugned notice dated 09.07.2020.

5.The learned Special Government Pleader appearing for the respondents would submit that the petitioner has not produced any relevant documents to establish that the property in dispute is in possession and enjoyment of the petitioner and that therefore, the petitioner has no right to claim right over the said property. He would therefore submit that the impugned notice dated 09.07.2020 is in proper and valid.

6.In reply, the learned counsel appearing for the petitioner requested before this Court that liberty may be given to the petitioner to approach the Civil Court to establish his right over the said property, by producing oral and documentary evidence.

7.In view of the submission made by the learned Special Government Pleader, this Court is of the view that the petitioner has to approach the civil Court, by adducing oral and documentary evidence and this Court under Article 226 of the Constitution of India cannot go into the same. Therefore, the only remedy available to the petitioner is to approach the civil Court to redress his grievance.



8. With the above observations, this Writ Petition is disposed of with liberty to the petitioner to approach the civil Court to redress his grievance, if he is so advised. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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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,
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Ramanathapuram.

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Keelakkarai Taluk,
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3. The Firka Surveyor,
Thiruppullani,
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+1 CC to M/s.C. EZHILARASU, Advocate (SR-14845[F] dated 25/08/2020)

+1 CC to M/s.GP (SR-15103[F] dated 27/08/2020)

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