



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.12.2020

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD)No.10183 of 2020

V.Jothibasur

... Petitioner

Vs.

- 1.The Tahsildar,
Kulathur Taluk Office at Keeranur,
Kulathur Taluk,
Pudukkottai District.
- 2.Head Surveyor/Sub Inspector of Survey,
Kulathur Taluk Office at Keeranur,
Kulathur Taluk,
Pudukkottai District.
- 3.Sub Inspector of Police,
Udaiyalipatty Police Station,
Udaiyalipatty,
Kulathur Taluk,
Pudukkottai District.

4.T.Ganesan

... Respondent

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a writ of Mandamus, directing the first and second respondents to survey the land and to mark the boundaries of the punjai land comprised in Survey No.163/7B measuring 0.06.0 Ares at Moottampatty Village, Kulathur Taluk, Pudukkottai District with the aid of the third respondent within a stipulated period fixed by this Court.

For Petitioner	: Mr.C.Samivel
For Respondent	: Mr.M.Pandiya Rajan
1 to 3	Additional Government Pleader
For Respondent 4	: Mr.K.Balasundharam

ORDER

The petitioner has come forward with this Writ Petition, seeking a direction to the first and second respondents to survey the land and to mark the boundaries of the punjai land comprised in

<https://hdservices.courts.gov.in/hdservices/>

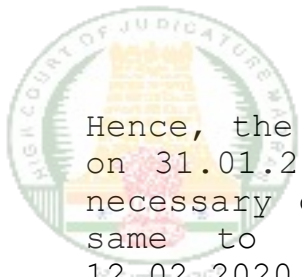


Survey No.163/7B measuring 0.06.0 Ares at Moottampatty Village, Kulathur Taluk, Pudukkottai District with the aid of the third respondent within the stipulated period fixed by this Court.

2.Heard the learned Counsel appearing for the petitioner, Mr.M.Pandiya Rajan, learned Additional Government Pleader appearing for the respondents 1 to 3 and Mr.K.Balasundharam, learned Counsel appearing for the fourth respondent.

3.The learned Counsel appearing for the petitioner would submit that the property of punja land measuring to an extent of 0.06.0 Ares in Survey No.163/7B situated at Moottampatty Village, Kulathur Taluk, Pudukkottai District, was purchased by the petitioner's father through a registered sale deed bearing Document No.121/1982 dated 28.02.1982. After the demise of the petitioner's father, the petitioner has been in possession and enjoyment of the property by paying necessary taxes. In the year 2001, the petitioner has obtained patta in his name and all other revenue records also mutated in his name. Further, he has also set up a cattle shed in the said land and constructed a compound wall around the said land. While so, on 26.01.2020, the fourth respondent and his son had trespassed in to the petitioner's land and demolished the compound wall with the help of JCB and removed the debris. Therefore, the petitioner lodged a complaint with the third respondent police and thereafter, on 02.02.2020, the fourth respondent had come for a compromise and made a written submission agreeing to reconstruct the compound wall. In the meanwhile, on 27.01.2020, the petitioner made a representation to the first respondent to survey and mark the boundaries of his punja land bearing Survey No.163/7B. Considering the representation of the petitioner, the second respondent had issued a notice on 20.06.2020 directing the petitioner to be present on 30.06.2020 for survey. Though the petitioner was present on the said date, no officials have turned up for surveying the petitioner's land. The learned Counsel appearing for the petitioner would further submit that the fourth respondent is not at all concerned with the property in question and he is an instrument to a local Advocate who is creating the problem. Thereafter, the petitioner had sent another representation on 24.07.2020 to the respondents 1 and 2 for surveying his land. As there was no response from the respondents 1 and 2, the petitioner has come forward with the present Writ Petition.

4.The learned Counsel appearing for the fourth respondent would submit that the petitioner's father had purchased an extent of 18 cents out of the total extent of 70 cents from the father of the fourth respondent in S.F.No.163/7 and next to the western boundary of the said portion, there is a cart-road (வண்டிப் பாதை). Though the said cart-road has been mentioned in the sale deed and is in existence, in the revenue records, it has not been demarcated.



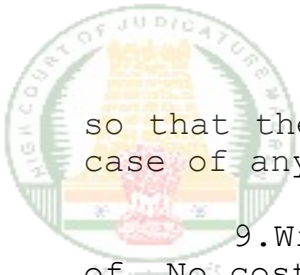
Hence, the fourth respondent made a representation on 01.07.2019 and on 31.01.2020 to the Revenue Divisional Officer, Illuppur, seeking necessary change in the revenue records, who in turn forwarded the same to the first respondent herein vide proceedings dated 12.02.2020. However, he would further submit that the fourth respondent has no objection for conducting the survey if it is done based on the sale deed produced by the petitioner and not otherwise.

5.The learned Additional Government Pleader appearing for the respondents 1 to 3 would submit that the matter is pending before the Revenue Divisional Officer, Illuppur.

6.Considering the submissions made on either side, in order to give quietus to the issue and as the matter is pending before the Revenue Divisional Officer, Illuppur, the first respondent is directed to survey the property in the light of the judgment made in W.P.(MD)No.13465 of 2020, dated 13.10.2020 and send a report before the Revenue Divisional Officer, Illuppur, enabling him to come to a conclusion. Such exercise shall be concluded within a period of 120 days from the date of receipt of a copy of this order. In case any Civil Suit is already pending, there is no need for measuring the land in question, as it is for the Civil Court to decide the matter. After the order of this Court any suit is filed, the officials hands are not tied to carry out the directions mentioned in the aforesaid two orders, as there is a possibility of one or other party to move the Court later and to stall the proceedings before the revenue authorities. Only exception is if an interim order operates against the authorities.

7. If the persons like the present petitioner, who are seeking to survey the land do not disclose the other persons, who are interested, they must file an affidavit that there are no third parties involved in the issue concerned and also there are no interested parties. In case, at a later point of time if the fact came to light that there is any interested parties, the decision taken by the authority in favour of the petitioner will stand automatically cancelled. Further, the averments made in the affidavit shall be reflected in their order so that the officer will not face any problem at a later point of time. More over, for filing a false affidavit, if appropriate action is taken, the person concerned will have to face imprisonment rather than fine.

8.As it is contended by the petitioner that a local Advocate is creating problem, the person who is surveying the land and the Revenue Divisional Officer are entitled to demand a xerox copy of Identity proof of the Advocate who is going to represent the fourth respondent in the spot or before the authority concerned. This Court further directs that the details of the Advocate along with enrolment number and other particulars may also be collected and the same may be forwarded to Bar Council along with necessary complaint,



so that the Bar Council can take appropriate action against him, in case of any unrest created by the said Advocate(s).

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

WEB COPY

Sd/-

Assistant Registrar

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

SRM

Note: Registry is directed to furnish a copy of this order to Mr.C.K.Chandrasekar, Standing Counsel for Bar Council of Tamil Nadu and Puducherry, Chennai, who in turn shall hand over the same to the Bar Council for necessary action.

To

1. The Tahsildar,
Kulathur Taluk Office at Keeranur,
Kulathur Taluk, Pudukkottai District.
2. Head Surveyor/Sub Inspector of Survey,
Kulathur Taluk Office at Keeranur,
Kulathur Taluk,
Pudukkottai District.
3. Sub Inspector of Police,
Udaiyalipatty Police Station,
Udaiyalipatty, Kulathur Taluk,
Pudukkottai District.
4. The Revenue Divisional Officer,
Illuppur.

Copy to

Mr.C.K.Chandra Sekar,
Standing Counsel for Bar Council of
Tamil Nadu and Puducherry,
Chennai.

+1cc to Mr.C.Samivel, Advocate Sr.No.25360

+1cc to SPL GP SR.No.25147

W.P. (MD) No.10183 of 2020
10.12.2020

VB (05.01.2021) 4P 8C