



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE **S. VAIDYANATHAN**

W.P. (MD)No.11734 of 2020

T.Rajmohan

... Petitioner

-vs-

1.The Commissioner,
Tiruchirappalli City Municipal Corporation,
Bharathidasan Salai
Cantonment, Tiruchirappalli.

2.The Town Sub Inspector of Survey,
Tiruchirappalli City Municipal Corporation,
Ponmalai Zone, TVS Tollgate
Mannarpuram, Tiruchirappalli.

3.T.Jayakumaran

... Respondents

(3rd respondent is impleaded vide
order of this Court dated 28.09.2020
in WMP(MD) No.10924/2020)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the 2nd respondent to survey and measure the property comprised in New S.F.No.86/1 and 3 (Old S.F.No.176/9C) New Ward No.A.L., Block No.26 situated at Edamalaipattiputhur Village, Ponmalai Zone, Mannarpuram, Tiruchirappalli Town and District within a specified time that may be fixed by this Court.

For Petitioner : Mr.Shangar Murali
For Respondents 1 & 2 : Mr.N.S.Karthikeyan
Standing Counsel

ORDER

This writ petition is filed, seeking a direction to the 2nd respondent to survey and measure the property comprised in New S.F.No.86/1 and 3 (Old S.F.No.176/9C) New Ward No.A.L., Block No.26 situated at Edamalaipattiputhur Village, Ponmalai Zone, Mannarpuram, Tiruchirappalli Town and District.

2. Mr.N.S.Karthikeyan, learned standing counsel, takes notice for the respondents 1 and 2. By consent of both parties, the Writ Petition is disposed of at the admission stage itself.

3. It is represented by the learned counsel appearing for the

<https://hcservices.ecourts.gov.in/hcservices/>



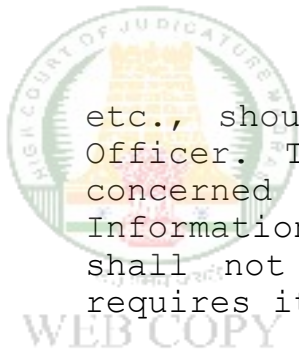
petitioner that in order to construct a house at the property, which is settled by his mother, the petitioner applied for building license and building plan from the Local Planning Authority to the respondents. Pursuant to the said application, building license and planning permission was given to the petitioner on 29.04.2020 and 20.04.2020 respectively. While so, the petitioner submitted an application on 08.06.2020 to survey and measure the property and he has remitted the necessary payment for such survey and measurement. Though payment has been remitted, the survey and measurement of the property has not been made so far and hence, the petitioner is before this Court with the aforesaid prayer.

4. Though the petitioner seeks a direction to the 2nd respondent to conduct survey and measurement of the property in question, considering the facts and circumstances of the case, this Court is of the view that a direction is issued to the 2nd respondent to depute a devoted and honest Surveyor for survey of the property in question in the presence of both parties and after survey, the Surveyor, while sending the report to the authorities concerned, shall ensure that a copy of the recorded version is also forwarded along with it, so that the issue between the parties can be decided in one way or the other. The entire exercise shall be completed within a period of two months from the date of receipt of a copy of this order.

5. At this juncture, this Court thinks it fit to draw certain guidelines to be followed, in respect of survey of the properties in future by the authorities concerned, which are as under:

i) On receipt of charges towards Survey or Resurvey, it should be conducted within a period of 30 days from the date of such receipt and in case of failure on the part of the authorities to do so, the cost of application shall be returned to the parties, apart from recovery of a sum of Rs.2,500/- from the salary of the concerned Officials, responsible for execution of the job and also initiation of departmental proceedings against them and those errand officers must be identified and placed under suspension and even dismissed from service for their misconduct, dereliction of duty, showing no devotion to work, lack of integrity, so as to deprive their entire gratuity and terminal benefits under the head "moral turpitude", thereby failing to maintain absolute integrity in discharging his/her official duties. The details of such Officers stated supra together with his / her Aadhar Number shall be incorporated and adverse remarks shall be entered in the Service Register of the concerned Officers, so as to deprive their further promotions in their career. In case of failure to do survey, the concerned Official / Surveyor shall be displaced to a non-sensitive post;

ii) A Register shall be maintained, in which details, such as name of the person, who has gone for survey, area of survey, date of survey, completion of survey, reason for not surveying the property,



etc., should be entered periodically and verified by the Superior Officer. The complete details shall be available to the parties concerned or any person, when required under the Right to Information Act and Section 8 of the said Act or any other provision shall not be quoted to deprive the details to the person, who requires it;

(iii) The Respondents 1 to 4 shall make use of Drone Technology in order to conduct accurate survey of the property, which will throw light with regard to encroachment on Government lands, like OSR, Public Roads, Parks, Lakes, Odai, etc.

(iv) Pendency of litigation before Courts is not a bar for the authorities to conduct survey or resurvey in the absence of any stay / interim order / interim injunction from proceeding further;

(v) In cases relating to pending civil dispute, the parties are at liberty to approach the appropriate forum for conducting Survey or Resurvey of the property in question by making necessary application and the same shall be considered by the appropriate forum in accordance with law;

(vi) The entire process of survey or resurvey shall be photographed and videographed by the authorities concerned even in the absence of suitable orders to that effect and the copies of documents shall be furnished to the parties concerned on receipt of necessary charges;

(vii) In the event of any public documents sought for by any of the parties in connection with the property in question, under the Right to Information Act, it should be duly certified and provided to such parties and it should not be denied by merely quoting some provisions of the RTI Act, more particularly, Section 8 of the said Act, unless there is any interim order operating against the parties concerned in respect of disbursement of the documents sought for by the parties. The name, designation, Employment number, if any, Aadhar card details shall be furnished in the certification;

(viii) It is needless to mention that obviously, the entire charges for survey or resurvey of the property shall be paid by the parties concerned or it should be equally borne them, depending upon the facts of each case. In case of delay on the side of the Authorities, the costs should be borne by them from their personal funds;

(ix) A constant vigil at the Officials of every Revenue Departments is absolutely necessary to regulate the revenue related works and the Vigilance Department shall be brought into action to curb the demand of bribe by them, especially Surveyors;

<https://hcservices.ecourts.gov.in/hcservices> of request for issuance of Patta after survey,



apart from the aforesaid guidelines, the directions issued by this Court in W.P.(MD) No.7746 of 2020 batch on 23.09.2020 shall have to be adhered to;

(xi) The Government is directed to issue a circular in this regard, incorporating the above guidelines within a period of one month from the date of receipt of a copy of this order.

6. With the above directions, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (Writs)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

RR

To

- 1.The Chief Secretary to Government,
The State of Tamil Nadu, Fort.St George,Chennai.
- 2.The Commissioner,
Tiruchirappalli City Municipal Corporation,
Bharathidasan Salai
Cantonment, Tiruchirappalli.
- 3.The Town Sub Inspector of Survey,
Tiruchirappalli City Municipal Corporation,
Ponmalai Zone, TVS Tollgate
Mannarpuram, Tiruchirappalli.

W.P (MD) No.11734 of 2020

05.10.2020

(AC) CO

AP (28.10.2020) 4P 4C