



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.08.2020

CORAM:

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

W.P. (MD)No.1364 of 2019

P.Daisy

...Petitioner

Vs.

1.The District Collector,
Kanyakumari District at Nagercoil.

2.The Tahsildar,
Vilavancode Taluk,
Kuzhithurai,
Kanyakumari District.

3.The Taluk Surveyor,
Vilavancode Taluk,
Kanyakumari District.

...Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents to survey and demarcate the petitioner's property of an extent of 29 cents 485 sq.links comprised in Re-survey No.1040/3A by considering the representation of the petitioner, dated 26.11.2018.

For Petitioner	: Mr.S.C.Herold Singh
For Respondents	: Mr.S.Sethuraman Special Government Pleader

ORDER

This Writ Petition is filed to direct the respondents to survey and demarcate the petitioner's property measuring an extent of 29 cents 485 sq. links comprised in Re-survey No.1040/3A, by considering the petitioner's representation, dated 26.11.2018.

2.Heard Mr.S.C.Herold Singh, learned counsel appearing for the petitioner and Mr.R.Sethuraman, learned Special Government Pleader appearing for the respondents.

3.According to the petitioner, she is in possession and enjoyment of the property in R.S.No.1040/3A measuring an extent of 29 cents 485 sq.links, by way of settlement deed executed by her husband on 28.04.2015 and she obtained joint patta in the said property in Patta No.12056. In the said property there are two adjoining piece of land connected by a crooked pathway. In order to fence the said property, boundaries has to be fixed. Since there were no boundaries fixed in the said properties, she approached the respondents to demarcate the said property. In this regard, she made a representation dated 26.11.2018 to the respondents to survey and



fix the boundaries. Since no action has been taken, the petitioner is before this Court.

4.The learned Special Government Pleader appearing for the respondents has filed a counter affidavit, in which, it has been stated that the petitioner has not produced any plan for her property. When there is no plan for the petitioner's property, the Taluk Surveyor cannot fix the boundary or demarcate the boundary of the petitioner's property from the adjacent land owners. Further, it has been stated that the appropriate remedy available to the petitioner is to approach the civil Court for partition and demarcation, making all the adjacent land owners as parties. Though the third respondent viz., the Taluk Surveyor visited the property, he was unable to fix the boundary, based on the property described in the petitioner's settlement deed, because the measurements have not been given in the document.

5.The learned counsel appearing for the petitioner submitted that there is no objection from the adjacent land owners to survey and demarcate the property. Therefore, third respondent may be directed to revisit and survey the property, after giving opportunity to the parties concerned.

6.By accepting the contention of the learned counsel for the petitioner, this Court is inclined to direct the third respondent to revisit the aforesaid property and survey the same, after affording opportunity to all the parties concerned and to take appropriate decision and the same will be communicated to the parties concerned within a period of twelve(12) weeks from the date of receipt of a copy of this order.

7.This Writ Petition is disposed of, with the above direction. No costs.

Sd/-

Assistant Registrar ()

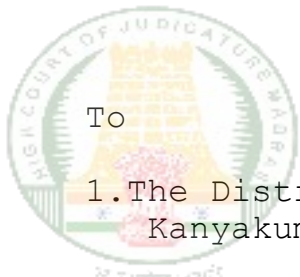
// True Copy //

/ /2020

Sub Assistant Registrar(CS)

vsd/Ns

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,
Kanyakumari District at Nagercoil.

2.The Tahsildar,
Vilavancode Taluk,
Kuzhithurai,
Kanyakumari District.

3.The Taluk Surveyor,
Vilavancode Taluk,

+1CC to Special Government pleader, Madurai Bench of Madras High
court, Madurai SR No 13663/05.08.2020

Kanyakumari District.
W.P. (MD) No.1364 of 2019
04.08.2020

KB(18.08.2020) 3P 5C