



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.11.2020

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD)No.15500 of 2020

WEB COPY

Muthuchamy

... Petitioner

-Vs-

1.The District Collector,
Sivagangai District,Sivagangai.

2.The Tahsildar,
Kalayarkovil Taluk,
Sivagangai District.

3.The Taluk Deputy Inspector of Survey,
Land Survey Department,
Taluk Office,
Kalayarkovil Taluk, Sivagangai District.

4.The Inspector of Police,
Kalayarkovil Police Station,
Sivagangai District.

5.Shanthi

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a writ of Mandamus, directing the second respondent to consider the petitioner's representation dated 01.09.2017 to measure the petitioner's land bearing Survey No.120/4A admeasuring 32 cents situated at M.Vagaikulam Village Group, Kalayarkovil Taluk, Sivagangai District and identify the four boundaries in the said property.

For Petitioner	: Mr.V.Kannan
For R1 to R4	: Mr.P.Kannithevan, Additional Government Pleader.
R5	: Notice Dispense with

ORDER

The petitioner has come forward with this Writ Petition, seeking a direction to the second respondent to consider the petitioner's representation dated 01.09.2017 to measure the petitioner's land bearing Survey No.120/4A admeasuring 32 cents situated at M.Vagaikulam Village Group, Kalayarkovil Taluk, Sivagangai District and identify the four boundaries in the said



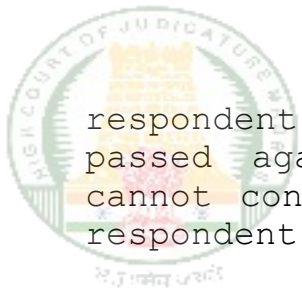
2.By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3.Mr.P.Kannitheven, learned Additional Government Pleader accepts notice on behalf of the respondents 1 to 4. Since no adverse order is going to be passed against the 5th respondent, notice to her is dispensed with.

4.According to the petitioner, he is in possession and enjoyment of the land in S.No.120/4A to the extent of 32 cents situated at M.Vagaikulam Village Group, Kalayarkovil Taluk, Sivagangai District and patta has also been issued in Patta No.444. The 5th respondent has purchased a piece of land in S.No.120/4B to the extent of 1.61 acres from one Amalraj, which is adjacent to the petitioner's land. At the time of erecting a barrier in the form of barbed wire fence, the 5th respondent has encroached the petitioner's land. Hence, the petitioner has made a representation dated 01.09.2017 to the second respondent to conduct survey and fix four boundaries in the land and also paid necessary fee. However, the same has not been considered by the second respondent. Thereafter, the petitioner has made several representations to the respondents 1 to 4 and his last representation was dated 07.09.2020. Since no order has been passed on the representation of the petitioner, he has approached this Court, seeking aforesaid prayer.

5.This Court without going into the merits of the case, directs the respondents 1 to 4 to survey the property of the petitioner, after affording opportunity to the petitioner and also the 5th respondent. The said survey shall be photographed and videographed in the presence of the petitioner and the costs of Photograph and Videograph to be borne by the petitioner. Such an exercise shall be completed, within a period of three (3) months from the date of receipt of a copy of this order. At the time of conducting survey and in case of issuance of patta, the guidelines issued by this Court in W.P.(MD)No.13465 of 2020, dated 13.10.2020 and W.P.(MD)Nos.7746 of 2020 etc., batch dated 23.09.2020, have to be scrupulously followed. 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.

6.It is needless to mention that this Court has not decided the rights of the parties, namely, the petitioner and the 5th



respondent in this Writ Petition and no adverse order has been passed against the 5th respondent. Therefore, the petitioner cannot contend that adverse order has been passed against the 5th respondent.

7. Accordingly, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

Myr

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,
Sivagangai District, Sivagangai.
2. The Tahsildar,
Kalayarkovil Taluk,
Sivagangai District.
3. The Taluk Deputy Inspector of Survey,
Land Survey Department,
Taluk Office,
Kalayarkovil Taluk, Sivagangai District.
4. The Inspector of Police,
Kalayarkovil Police Station,
Sivagangai District.

+1 CC to SGP (SR-21747[F] dated 10/11/2020)

Order made in
W.P. (MD)No.15500 of 2020
06.11.2020

SJ(CO)

KM (02.12.2020) 3P 6C

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