



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.11.2020

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WEB COPY

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD) No.15665 of 2020

E.Ganesan

...Petitioner

-Vs-

- 1.The District Collector,
Sivagangai District.
- 2.The Tahsildar,
Kalaiyarkovil Taluk,
Sivagangai District.
- 3.The Head Surveyor,
Kurunthani Variyanthal Group,
Kalaiyarkovil Taluk,
Sivagangai District.

...Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a writ of Mandamus, to direct the respondents to consider petitioner's representation dated 03.09.2020 to survey petitioner's house site by fixing the boundary in Survey No.469/2 to an extent of 0.02.30 ares which is situated at Kurunthani Village, Kurunthani Variyenthal Group, Kalaiyarkovil Taluk, Sivagangai District.

For Petitioner : Mr.S.Bala Karthick
For Respondents : Mr.K.P.Krishnadoss
Special Government Pleader.

ORDER

This writ petition has been filed to direct the respondents to consider petitioner's representation dated 03.09.2020 seeking to survey the petitioner's house site by fixing the boundary in Survey No.469/2 to an extent of 0.02.30 ares which is situated at Kurunthani Village, Kurunthani Variyenthal Group, Kalaiyarkovil Taluk, Sivagangai District.

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

3. Heard Mr.S.Bala Karthick, learned counsel for the petitioner and Mr.K.P.Krishnadoss, learned Special Government Pleader, who takes notice for the respondents.



4.The petitioner has submitted a representation dated 03.09.2020 seeking to survey the land in Survey No.469/2 to an extent of 0.02.30 ares which is situated at Kurunthani Village, Kurunthani Variyenthal Group, Kalaiyarkovil Taluk, Sivagangai District and also paid necessary fee. But, the representation submitted by the petitioner was not considered so far. In such circumstances, the petitioner has come forward with the present Writ Petition.

5. The learned Special Government Pleader appearing for the respondents submitted that a civil suit in O.S.No.92 of 2020 has been filed by one Mr.Alagarsamy for permanent injunction, wherein the petitioner herein is the first defendant in respect of the same land.

6. This Court has already held that when a civil suit is pending question of seeking relief under Article 226 of the Constitution of India does not arise. However, it is made very clear that if the person seeking the relief of survey is the owner of the land and there is no suit for declaration, mere an injunction suit will not be a bar to conduct survey.

7. Accordingly, this Court without going into the merits of the case, directs the respondents to survey the property of the petitioner, after affording opportunity to the petitioner and others, who are likely to be affected/interested. 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 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.

8.Accordingly, this Writ Petition is disposed of. 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,
Sivagangai District.
2. The Tahsildar,
Kalaiyarkovil Taluk,
Sivagangai District.
3. The Head Surveyor,
Kurunthani Variyanthal Group,
Kalaiyarkovil Taluk,
Sivagangai District.

+1 CC to M/s.GP (SR-21791[F] dated 10/11/2020)

W.P. (MD) No.15665 of 2020
09.11.2020

ARK(CO)
TR(20.11.2020) 3P 5C