



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE S. VAIDYANATHAN

W.P.(MD)No.16101 of 2020

Yakub

... Petitioner

-VS-

1. The District Collector,
Sivagangai District,
Sivagangai.

2. The Tahsildar,
Ilayangudi Taluk,
Ilayangudi,
Sivagangai District.

3. The Surveyor,
Ilayangudi Taluk,
Ilayangudi,
Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the second and third respondents to survey and demarcate the petitioner's property comprised in Pula No.802/24 situated at Salaigramam, Ilayangudi Taluk, Sivagangai District in the light of the direction of the first respondent on the representation of the petitioner dated 09.09.2020 based on the application of the petitioner dated 24.02.2020 within the time frame, as fixed by this Court.

For Petitioner : Mr.B.Prahalad Ravi
For Respondents : Mr.M.Pandiya Rajan
Additional Government Pleader

ORDER

This writ petition is filed, seeking issuance of a Writ of Mandamus directing the second and third respondents to survey and demarcate the petitioner's property comprised in Pula No.802/24 situated at Salaigramam, Ilayangudi Taluk, Sivagangai District in the light of the direction of the first respondent on the



representation of the petitioner dated 09.09.2020 based on the application of the petitioner dated 24.02.2020 within the time frame.

2. Heard the learned Counsel appearing for the petitioner and Mr.M.Pandiya Rajan, learned Additional Government Pleader, who took notice for the respondents. By consent of both parties, the Writ Petition is disposed of at the admission stage itself.

3. The learned Counsel appearing for the petitioner would submit that the the petitioner had purchased a property comprised in Pula No.802/24 situated at Salaigramam, Ilayangudi Taluk, Sivagangai District, for valuable consideration vide document dated 12.10.1992 and he has been in possession and enjoyment of the same. While so, one Kalaiselvi of the same village had filed a civil suit in O.S.No.53 of 2006 seeking declaration, recovery of possession and mandatory injunction against the petitioner and another person on untenable grounds. The petitioner had contested the suit on the ground that the suit is not maintainable insofar as 16 ½ sq. ft. in Pula No.802/24 as the same belongs to him. The Civil Court having considered the relevant points and documents, negatived the claim made by the said Kalaiselvi. Even thereafter, the said Kalaiselvi is giving trouble to the petitioner. Therefore, the petitioner had made a representation to the second respondent on 24.02.2020 requesting him to demarcate the property. Though the second respondent had issued notices vide communication dated 08.06.2020 and 31.08.2020 directing the petitioner and the said Kalaiselvi to be present in the land in question with all documents for survey and demarcation of the said property, no survey or demarcation of the property had taken place. Therefore, the petitioner had also made another representation on 09.09.2020 to the first respondent. On receipt of the same, the first respondent had directed the second respondent to survey and demarcate the property in question with the help of police. Even thereafter, no action has been taken by the second respondent. Hence, the petitioner has come forward with the present Writ Petition.

4. Mr.M.Pandiya Rajan, learned Additional Government Pleader appearing for the respondents produced a copy of the communication received from the Tahsildar, Ilayankudi, second respondent herein, dated 13.11.2020 and submitted that there is a dispute with regard to Survey No.802/24 and that the plaintiff in O.S.No.53 of 2006 by name Kalaiselvi has objected to conduct survey and demarcate the property in question as the said land was already measured and demarcated in the presence of the Advocate Commissioner.

5. Considering the fact that when there is a judgment and decree against the said Kalaiselvi and the said judgment and decree has become final, it is the duty of the second and third respondents to survey the land in question. Even assuming for the sake of argument that the land in question has been measured and handed over to the petitioner,



when the petitioner is willing to survey the land by paying necessary charges for the purpose of survey, nothing prevents the respondents from surveying the property unless there are any preventive orders from the Court. Further, the said Kalaiselvi has no right to object to this as she has already lost the suit. Therefore, the second respondent is directed to consider the representation of the petitioner dated 09.09.2020 and survey the property in the light of the judgment made in W.P.(MD)No.13465 of 2020, dated 13.10.2020 and in case of issuance of patta, after survey, the directions issued by this Court in W.P(MD).No.7746 of 2020 batch, dated 23.09.2020 should be scrupulously followed.

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

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

SRM

To

1. The District Collector,
Sivagangai District,
Sivagangai.
2. The Tahsildar,
Ilayangudi Taluk,
Ilayangudi,
Sivagangai District.
3. The Surveyor,
Ilayangudi Taluk,
Ilayangudi,
Sivagangai District.

+1 CC to the SPL GP (SR-22194[F] dated 19/11/2020)

W.P (MD) No.16101 of 2020
18.11.2020

KG (CO)

CS (14.12.2020) 3P 5C