



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE S. VAIDYANATHAN

W.P.(MD)No.17634 of 2020

WEB COPY

R.Justin Sundar,
S/o.Rajamony,
468, Church Street,
Near Housing Board,
Holy Cross College Road,
Nagercoil,
Kanyakumari District,
Power agent of Vivek Sam Sundar Raj,
S/o.Sam Sundar Raj and
Herold Samjith,
S/o. Sam Sundar Raj,
Pattanvilai,
Kuruthancode Village,
Kalkulam Taluk,
Kanyakumari District.

... Petitioner

-vs-

1. The Tahsildar,
Kalkulam Taluk,
Kanyakumari District.
2. The Taluk Surveyor,
Kalkulam Taluk,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondent to measure and demarcate the properties in re-survey Nos.106/17, 125/1, 125/2 and 125/4 comprised in Kuruthancode Village, Kalkulam Taluk, Kanyakumari District and to issue separate patta in the name of Vivek Sam Sundar Raj son of Sam Sundar Raj and Herold Samjith son of Sam Sundar Raj by considering the application of the petitioner dated 03.09.2020 within a time frame.

For Petitioner
For Respondents

: Mr.S.C.Herold Singh
: Mr.K.P.Krishnadoss
Special Government Pleader

**ORDER**

This writ petition is filed, seeking issuance of a Writ of Mandamus directing the respondent to measure and demarcate the properties in re-survey Nos.106/17, 125/1, 125/2 and 125/4 situated in Kuruthancode Village, Kalkulam Taluk, Kanyakumari District and to issue separate patta in the name of Vivek Sam Sundar Raj son of Sam Sundar Raj and Herold Samjith son of Sam Sundar Raj by considering the application of the petitioner dated 03.09.2020 within a time frame.

2.Heard the learned Counsel appearing for the petitioner and Mr.K.P.Krishnadoss, learned Special 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.It is represented by the learned counsel appearing for the petitioner that the properties in Re-survey Nos.106/17, 125/1, 125/2 and 125/4 situated in Kuruthancode Village, Kalkulam Taluk, Kanyakumari District, originally belonged to one Sam Sundar Raj and after his demise on 25.09.2014, his legal heirs by name Vivek Sam Sundar Raj and Herold Samjith have inherited the said property and they are in possession and enjoyment of the said property as absolute owners. As Vivek Sam Sundar Raj is working at Bangalore and Herold Samjith is working abroad, they have executed a power of attorney in favour of the petitioner on 13.05.2016 to maintain the properties. Since the petitioner wanted to construct a compound wall around the property, he had approached the respondents to survey the land and demarcate the boundaries by way of a representation dated 03.09.2020. As there was no response from the respondents, the petitioner had made another representation to the District Collect, Kanyakumari at Nagercoil on 28.09.2020. Even thereafter there is no response from the respondents and hence, the petitioner has come forward with the present Writ Petition.

4.This Court without going into the merits of the case, directs the first respondent to consider the representation of the petitioner dated 03.09.2020 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. 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.



5.If the persons like the present petitioner, who are seeking to survey the land do not disclose the other persons, who are interested, they must file an affidavit that there are no third parties involved in the issue concerned and also there are no interested parties. In case, at a later point of time if the fact came to light that there is any interested parties, the decision taken by the authority in favour of the petitioner will stand automatically cancelled. Further, the averments made in the affidavit shall be reflected in their order so that the officer will not face any problem at a later point of time. More over, for filing a false affidavit, if appropriate action is taken, the person concerned will have to face imprisonment rather than fine.

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

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

SRM

To

1. The Tahsildar,
Kalkulam Taluk,
Kanyakumari District.
2. The Taluk Surveyor,
Kalkulam Taluk,
Kanyakumari District.

+1 CC to the SPL GP (SR-24442[F] dated 08/12/2020)

W.P (MD)No.17634 of 2020
04.12.2020

ARK(CO)
CS(18.12.2020) 3P 4C