



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.12.2020

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD)No.17383 of 2020

U.Arumugam

... Petitioner

Vs.

1.The District Head Surveyor,
Virudhunagar,
Virudhunagar District.

2.The Tahsildar,
Thiruchuli Taluk Office,
Thiruchuli,
Virudhunagar District.

3.The Surveyor,
Tiruchuli Taluk,
Virudhunagar District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a writ of Mandamus, directing the third respondent to survey the petitioner's land comprised in Old Patta No.475, New Patta No.721, comprised in survey Nos.306/1A, 308/1, 308/2, 309/1 to an extent of 9 hectares and 89.50 Ares situated at Vembangudi Village, Narikudi Post, Thiruchuli Taluk, Virudhunagar District and earmarked the boundaries of the properties based on the petitioner's representation dated 10.11.2020.

For Petitioner : Mr.K.Sivabalan

For Respondents : Mr.M.Muniyasamy
Additional Government Pleader

ORDER

The petitioner has come forward with this Writ Petition, seeking a direction to the third respondent to survey the petitioner's land comprised in Old Patta No.475, New Patta No.721, comprised in survey Nos.306/1A, 308/1, 308/2, 309/1 to an extent of 9 hectares and 89.50 Ares situated at Vembangudi Village, Narikudi Post, Thiruchuli Taluk, Virudhunagar District and earmarked the boundaries of the properties based on the petitioner's representation dated 10.11.2020.



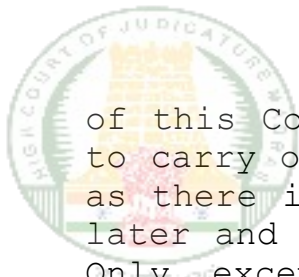
2. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3. Mr.M.Muniyasamy, learned Additional Government Pleader accepts notice on behalf of the respondents.

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4. According to the petitioner, the petitioner and the other joint pattathars are the owners of the land situated in Old Patta No.475, New Patta No.721, comprised in survey Nos.306/1A, 308/1, 308/2, 309/1 to an extent of 9 hectors and 89.50 Ares situated at Vembangudi Village, Narikudi Post, Thiruchuli Taluk, Virudhunagar District. When the property in Survey No.308 was subdivided as S.F.No.308/1 to 308/10, one Jamal Mohideen, Sahul Hameed, Jinnah @ Jamal and Mohamed Meera had wrongly claimed the property and by showing their names in the Settlement Register, they cancelled the earlier pattas, which stand in the name of the petitioner and other pattathars and obtained the patta in their favour and also they filed a suit in O.S.No.19 of 1984 before the District Munsif, Manamadurai seeking the relief of Injunction as well as recovery of possession and the same was decreed in favour of the petitioner and other pattathars. Subsequently, they filed another suit in O.S.No.205 of 1998 before the District Munsif Court, Aruppukottai and the same was dismissed. Therefore, the petitioner and other pattathars approached the District Collector, Virudhunagar to restore the patta in their name in the year 2015, and accordingly, the patta was transferred again to the original owners and new patta was issued in Patta No.721. In order to fix boundaries, the petitioner approached the respondents to survey the property and in this regard, the petitioner made a representation to the respondent on 12.10.2020 and also paid necessary fees. However, the same has not been considered so far. In such circumstances, the petitioner has approached this Court.

5. This Court, without going into the merits of the case, directs the third respondent to survey the property of the petitioner, after affording opportunity to the petitioner as well as the interested parties and the persons, who are likely to be affected. In case of issuance of patta, survey needs to be conducted and 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. It is needless to mention that the third respondent shall ascertain as to whether any appeal is pending against O.S.No.205 of 1998 and if any appeal is pending, the third respondent need not proceed further.

6. 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.

7. With the above direction and observation, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (RECORDS)

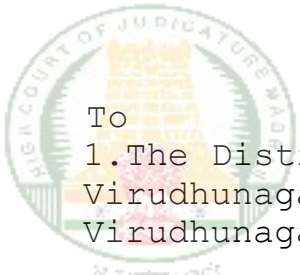
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/ /2021

Sub Assistant Registrar (CS)

PJL

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 Head Surveyor,
Virudhunagar,
Virudhunagar District.

2.The Tahsildar,
Thiruchuli Taluk Office,
Thiruchuli,
Virudhunagar District.

3.The Surveyor,
Tiruchuli Taluk,
Virudhunagar District.

+1 cc to Mr.K.Sivabalan , Advocate SR.No.23863

+1 cc to The Special Government Pleader Sr.No.23881

W.P. (MD)No.17383 of 2020
02.12.2020

KM (18.01.2021) 4P 6C