



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.12.2020

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD) No.17440 of 2020

WEB COPY

Selvavinayagam

... Petitioner

Vs.

1.The Tahsildar,
Tuticorin Taluk,
Tuticorin District.

2.The Taluk Head Surveyor,
Tuticorin Taluk,
Tuticorin District.

3.The Village Administrative Officer,
Seraikaran Madam Village,
Tuticorin District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a writ of Mandamus, directing the respondents to survey and demarcate the petitioner's property in Survey No.75/2 situated at Seraikaran Madam Village, Tuticorin District and to issue a patta to the legal heirs of the petitioner's father based on the petitioner's application dated 19.11.2020 within the time stipulated by this Court.

For Petitioner : Mr.R.Jegadeeswaran

For Respondents : Mr.S.Angappan
Government Advocate

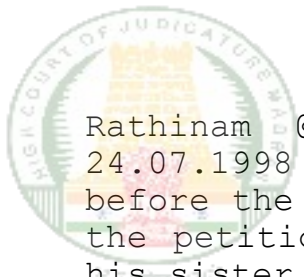
ORDER

The petitioner has come forward with this Writ Petition, seeking a direction to the respondents to survey and demarcate the petitioner's property in Survey No.75/2 situated at Seraikaran Madam Village, Tuticorin District and to issue a patta to the legal heirs of the petitioner's father based on the petitioner's application dated 19.11.2020 within the time stipulated by this Court.

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

3. Mr.S.Angappan, learned Government Advocate accepts notice on behalf of the respondents.

4. According to the petitioner, the petitioner's father namely, Pusbaraj has purchased the property in Survey No.75/2 situated at Seraikaran Madam Village, Tuticorin District from one



Rathinam @ Ranjitham and Arulraj by way of sale deed dated 24.07.1998 and the same was registered in Document No.1627/1998 before the Sub Registrar Office Pudukkottai, Tuticorin District. Now the petitioner's father and mother are no more and the petitioner, his sister, namely, Selva Jeeva and brother, namely, Selva Jegan are the legalheirs of the petitioner's father. Hence, in order to fix the boundaries and get patta in favour of the petitioner's legalheirs, the petitioner made a representation to the respondents on 19.11.2020. However, the same has not been considered so far. In such circumstances, the petitioner has approached this Court.

5. It is represented by the learned Special Government Pleader that the said Survey No.75/2 has already been bifurcated as 75/2A, 75/2B and 75/2C and for the said property a joint patta was issued. He further submitted that there are other persons, who are interested in the said property.

6. Admittedly, the petitioner's father is no more and he has not impleaded any of the legalheirs apart from the point that it is a joint patta property and none of the joint pattathars has made as parties to this writ petition. Unless and otherwise the petitioner gets patta in his name or include his name as one of the joint pattathars, the question of survey and demarcation of the property is not possible. The conduct of the petitioner in non-inclusion of the joint pattathars in the writ petition as a party respondents, is highly deprecated. It is open to the petitioner to approach the appropriate authority to get patta in his favour and thereafter seek necessary relief. In case, any application is made by the petitioner and the petitioner's name is found to be one of the joint pattathars, the second respondent is directed 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 on which the petitioner made a fresh representation to include his name in the joint patta. 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.



7. 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.

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

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /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 Tahsildar,
Tuticorin Taluk,
Tuticorin District.

2.The Taluk Head Surveyor,
Tuticorin Taluk,
Tuticorin District.

3.The Village Administrative Officer,
Servaikaran Madam Village,
Tuticorin District.

+1cc to M/s.Special Government Pleader, SR No.24287

W.P. (MD) No.17440 of 2020
03.12.2020

MK (CO)

KK(19.01.2021) 3P 5C

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