



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.12.2020

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD) No.17779 of 2020

Nagarajan

... Petitioner

Vs.

1.The Tahsildar,
Tiruparankundaram Taluk,
Madurai District.

2.The Land Surveyor,
Office of the Tahsildar,
Tiruparankundaram Taluk,
Madurai District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a writ of Mandamus, directing the respondent to measure and demarcate the extent of 40 cents out of the total extent of 76 cents comprised in S.No.31/2, Vinayagar Nagar, Pasumalai, Thiruparankundram, Madurai, on the basis of the sale deed dated 12.08.2009 bearing Document No.2735/2009, on considering the petitioner's representation dated 30.09.2020.

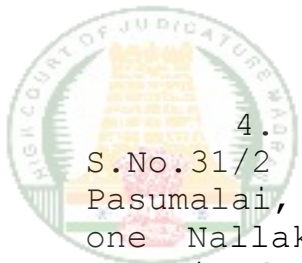
For Petitioner	: Mr.R.G.Shankar Ganesh
For Respondent	: Mr.S.Angappan Government Advocate

ORDER

The petitioner has come forward with this Writ Petition, seeking a direction to the respondent to measure and demarcate the extent of 40 cents out of the total extent of 76 cents comprised in S.No.31/2, Vinayagar Nagar, Pasumalai, Thiruparankundram, Madurai, on the basis of the sale deed dated 12.08.2009 bearing Document No.2735/2009, on considering the petitioner's representation dated 30.09.2020.

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 property comprised in S.No.31/2 to an extent of 76 cents situated at Vinayagar Nagar, Pasumalai, Thiruparankundram, Madurai, was originally belonged to one Nallakaruppan Chettiar. Apart from the same, the property comprised in S.No.33/4 to an extent of 34 cents also belonged to the said Nallakaruppan Chettiar. The petitioner's father purchased 40 cents comprised in S.No.31/2 by a registered sale deed dated 12.08.2009 vide Doc.No.2735/2009 from the wife/power agent of the said Nallakaruppan Chettiar. Hence, the petitioner is the absolute owner of the property comprised in S.No.31/2 to an extent of 40 cents. Further, the grandfather of the petitioner was a registered cultivating tenant under the said Nallakaruppan Chettiar in respect of the total extent of 1 Acre 10 Cents comprised in S.No.31/2 and 33/4. In the meantime, the said Nallakaruppan Chettiar sold 30 cents in S.No.31/2 to one Kannan. For the loan borrowed by the said Kannan, the Union Bank of India auctioned the said 30 cents to one Ravichandran. Therefore, the said Ravichandran fenced the property wrongly including the petitioner's property comprised in S.No.31/2 to an extent of 30 cents with the help of the respondents. Therefore, the petitioner made a representation to the respondents on 30.09.2020 to survey the total extent of 1 Acre 10 cents and fix the boundaries of the petitioner's property alone, to an extent of 40 cents and express his willingness to pay 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 and without passing any adverse orders against the third parties, directs the second 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.



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

Sd/-

Assistant Registrar (P&A)

// 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,
Tiruparankundaram Taluk,
Madurai District.

2.The Land Surveyor,
Office of the Tahsildar,
Tiruparankundaram Taluk,
Madurai District.

+1cc to the SPL GP SR.No.24867.

W.P. (MD) No.17779 of 2020
08.12.2020

NA (CO)
CS (07.01.2021) 3P 4C