



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.12.2020

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD)No.17963 of 2020

Ramaraj ... Petitioner

Vs.

1.The District Collector,
Tenkasi District,
Tenkasi.

2.The Tahsildar,
Kadayanallur Taluk,
Tenkasi District.

3.The Taluk Surveyor,
Kadayanallur Taluk,
Tenkasi District.

4.Chellappa
5.Velammal

6.Malamuthu Nadar

... 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 lands in S.No.739/5, measuring 21 cents and in S.No.739/11 measuring 39 cents of Sernthamaram Village, Sankarankoil Taluk, now Kadayanallur Taluk, Tenkasi District on the basis of the petitioner's representation dated 05.10.2020.

For Petitioner : Mr.M.Sankar

For Respondents 1 to 3 : Mr.M.Pandiya Rajan
Additional Government Pleader

ORDER

The petitioner has come forward with this Writ Petition, seeking a direction to the third respondent to survey the lands in S.No.739/5, measuring 21 cents and in S.No.739/11 measuring 39 cents of Sernthamaram Village, Sankarankoil Taluk, now Kadayanallur Taluk, Tenkasi District on the basis of the petitioner's representation dated 05.10.2020.

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



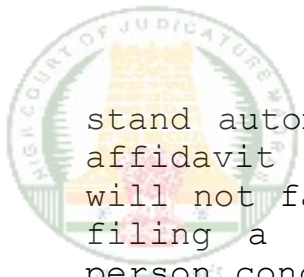
3. Mr.M.Pandiya Rajan, learned Additional Government Pleader accepts notice on behalf of the respondents 1 to 3. Since no adverse order is going to be passed against the respondents 4 to 6, notice to them is dispensed with.

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4. According to the petitioner, the property comprised S.No.739/5, measuring 21 cents and in S.No.739/11 measuring 39 cents situated at Sernthamaram Village, Sankarankoil Taluk, now Kadayanallur Taluk, Tenkasi District, is in possession and enjoyment of the petitioner acquired by way of ancestral property and Patta also stands in the name of the petitioner. In the meantime, the respondent 4 to 6 herein unlawfully entering into the petitioner's property and tried to encroach the same. Therefore, in order to survey the property, the petitioner made an application to the respondent on 05.10.2020. 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, the respondents 4 to 6 as well as the interested parties or 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.

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

Sd/-

Assistant Registrar (AD II)

// 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 District Collector,
Tenkasi District,
Tenkasi.

2.The Tahsildar,
Kadayanallur Taluk,
Tenkasi District.

3.The Taluk Surveyor,
Kadayanallur Taluk,
Tenkasi District.

+1 cc to The Special Government Pleader Sr.No.24901

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