



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE S. VAIDYANATHAN

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W.P. (MD)No.17932 of 2020

Velladurai

... Petitioner

-vs-

1. The District Collector,
Tirunelveli District,
Tirunelveli.

2. The Tahsildar,
Manur Taluk,
Tirunelveli District,

3. The Taluk Surveyor,
Manur Taluk,
Tirunelveli District.

4.Santhi

5.Saroja

6.Petchiammal

7.Mayandi

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the third respondent to survey the lands in S.No.38/2E to an extent of 4¾ cents and in S.No.38/2C to an extent of 7 cents of well (1/4th share) of Devarkulam Village, Manur Taluk, Tirunelveli District on the basis of the petitioners representation dated 03.11.2020.

For Petitioner

: Mr.M.Sankar

For Respondents

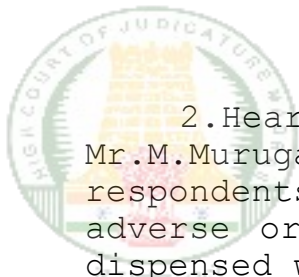
: Mr.M.Murugan

1 to 3

Government Advocate

ORDER

This writ petition is filed, seeking issuance of a Writ of Mandamus directing the third respondent to survey the lands in S.No.38/2E to an extent of 4¾ cents and in S.No.38/2C to an extent of 7 cents of well (1/4th share) of Devarkulam Village, Manur Taluk, Tirunelveli District on the basis of the petitioners representation dated 03.11.2020.



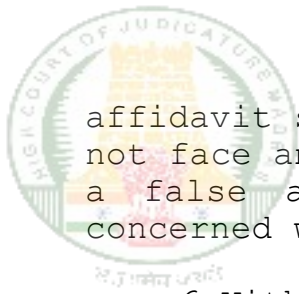
2. Heard the learned Counsel appearing for the petitioner and Mr.M.Murugan, learned Government Advocate, who took notice for the respondents 1 to 3. Since this Court is not going to pass any adverse orders against the respondents 4 to 7, notice to them is dispensed with.

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3. It is represented by the learned counsel appearing for the petitioner that the properties measuring an extent of $4\frac{3}{4}$ cents and 7 cents of well ($\frac{1}{4}$ th share) in Survey No.38/2E and 38/2C respectively situated at Devarkulam Village, Manur Taluk, Tirunelveli District, have been purchased by the petitioner vide sale Doc.No.694/1998 and thereafter he has been in possession and enjoyment of the said properties. The petitioner has been issued with a joint patta for the said properties. While so, the respondents 4 to 7, who have no rights whatsoever over the said properties, have trespassed into the petitioner's property and tried to form a pathway. When the petitioner questioned the same, the respondent 4 to 7 had threatened him with dire consequences. Therefore, in order to fix the boundaries of the petitioner's property, the petitioner had approached the third respondent by paying necessary fee for survey. Since there was no response from the third respondent, the petitioner had made a representation on 03.11.2020 to the respondents 1 to 3. Even thereafter, there was no response from the respondents 1 to 3. Hence, the petitioner has come forward with the present Writ Petition.

4. This Court without going into the merits of the case, directs the second respondent to consider the representation of the petitioner dated 03.11.2020 and survey the property, after hearing the persons who are likely to be affected including the respondents 1 to 7 and 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 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 (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

SRM

To

1. The District Collector,
Tirunelveli District,
Tirunelveli.
2. The Tahsildar,
Manur Taluk,
Tirunelveli District,
3. The Taluk Surveyor,
Manur Taluk,
Tirunelveli District.

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TP(CO)

CS(22.12.2020) 3P 4C