



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.12.2020

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD) No.19294 of 2020

WEB COPY

1. E.Karuppasamy
2.Sathyabama

... Petitioners

Vs.

1.The Tahsildhar,
Office of the Tahsildhar,
Tirunelveli,
Tirunelveli District.

2.The Land Surveyor,
Office of the Tahsildhar,
Tirunelveli Taluk Office,
Tirunelveli-627 001.

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a writ of Mandamus, directing the second respondent to consider the petitioner's representation dated 23.10.2020 to survey the petitioner's house Plot No.9 and Plot No.10 in Tirunelvlei Taluka, Pudur Village, out of Old S.No.254/1B part present village S.No.254/12(for plot No.9) and present village S.No.254/13(for plot No.10) within the jurisdiction of Joint-II Sub Registrar, Tirunelveli.

For Petitioners : Mr.M.S.Suresh Kumar

For Respondents : Mr.K.P.Krishnadoss

Special Government Pleader

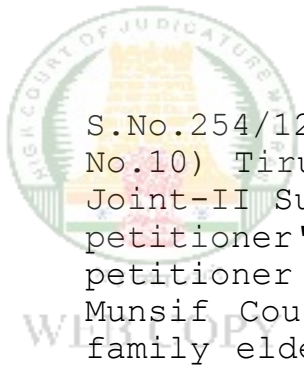
ORDER

The petitioners have come forward with this Writ Petition, seeking a direction to the second respondent to consider the petitioners' representation dated 23.10.2020 to survey the petitioner's house Plot No.9 and Plot No.10 in Tirunelvlei Taluka, Pudur Village, out of Old S.No.254/1B part present village S.No.254/12(for plot No.9) and present village S.No.254/13(for plot No.10) within the jurisdiction of Joint-II Sub Registrar, Tirunelveli.

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

3. Mr.K.P.Krishnadoss, learned Special Government Pleader accepts notice on behalf of the respondents.

4. The case of the petitioners is that the house site Plot No.9 and Plot No.10 in Old S.No.254/1B part present village



S.No.254/12(for plot No.9) and present village S.No.254/13(for plot No.10) Tirunelveli Taluka, Pudur Village within the jurisdiction of Joint-II Sub Registrar, Tirunelveli originally belonged to the first petitioner's ancestor. Thereafter, due to family dispute, the first petitioner filed O.S.No.57 of 2017 before the Principal District Munsif Court, Tirunelveli. Thereafter, by the intervention of the family elders, the parties to the suit were compromised before the Lok Adalat organized by the District Legal Services Authority, Tirunelveli. Accordingly, as per the compromise decree, Plot No.9 and Plot No.10 in S.No.254/12 and S.No.254/13 were given to the first petitioner as per the award dated 11.04.2017. Thereafter, on 06.10.2017, the first petitioner settled house Plot No.9 to his wife, the second petitioner herein by means of settlement deed and registered as Document No.2550 of 2017. In such circumstances, in order to fix the boundaries of the above said two plots, the petitioners approached the respondents and made a representation to the respondents on 23.10.2020. However, the same has not been considered so far. In such circumstances, the petitioners have approached this Court.

5. This Court, without going into the merits of the case, directs the second respondent to survey the property of the petitioners, after affording opportunity to the petitioners 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 petitioners and the costs of Photograph and Videograph to be borne by the petitioners. 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 (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 Tahsildhar,
Office of the Tahsildhar,
Tirunelveli,
Tirunelveli District.

2.The Land Surveyor,
Office of the Tahsildhar,
Tirunelveli Taluk Office,
Tirunelveli-627 001.

+1cc to M/s.Special Government Pleader, SR No. 27243

W.P. (MD) No.19294 of 2020
23.12.2020

MK (CO)

KK(19.01.2021) 3P 4C