



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.12.2020

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD) No.18469 of 2020

V.Marimuthu

... Petitioner

Vs.

1.The Assistant Director of Survey,
Dindigul District.

2.The Taluk Surveyor,
Aathur Taluk,
Dindigul District.

3. The Inspector of Police,
Ambathurai Police Station,
Dindigul District.

4.Masilamani

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a writ of Mandamus, directing the second respondent to survey, demarcate the boundaries of the petitioner's properties situated in Survey No.231/6 to an extent of 1 acre 28 ½ cents, Kalikkampatti Village, Chinnalapatti Sub-Division, Aathur Taluk, Dindigul District with the help of the police protection to be accorded by the third respondent.

For Petitioner : Mr.R.Anand

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

ORDER

The petitioner has come forward with this Writ Petition, seeking a direction to the second respondent to survey, demarcate the boundaries of the petitioner's properties situated in Survey No.231/6 to an extent of 1 acre 28 ½ cents, Kalikkampatti Village, Chinnalapatti Sub-Division, Aathur Taluk, Dindigul District with the help of the police protection to be accorded by the third respondent.

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

<https://hosevices.cedcourts.gov.in/hosevices>

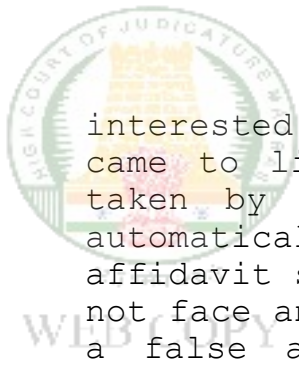


3. Mr.M.Muniyasamy, learned Additional Government Pleader accepts notice on behalf of the respondents 1 to 3. Since no adverse order is going to be passed, notice to the fourth respondent is dispensed with.

4. According to the petitioner, the property comprised in S.No.231/6 to an extent of 1 acre 28 ½ cents in Patta No.382, situated at Kalikkampatti Village, Chinnalapatti Sub-Division, Aathur Taluk, Dindigul District was belonged to the petitioner's mother. After the demise of his mother, the same has been devolved upon her legalheirs including the petitioner. Thereafter, the legalheirs of his deceased mother executed a settlement deed in favour of the petitioner on 21.09.2016 vide Doc. No.2052/2016. At this juncture, in order to fix the boundaries, the petitioner approached the respondents to survey the property and in this regard, the petitioner already approached this Court, and this Court had directed the authorities to survey the petitioner's land. Since no action has been taken on by the respondents, the petitioner made a representation to the respondents on 30.01.2020 along with the earlier orders of this Court. 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 second respondent to survey the property of the petitioner, after affording opportunity to the petitioner as well as the fourth respondent and the other 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.

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

Sd/-

Assistant Registrar (T&P)

// 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 Assistant Director of Survey,
Dindigul District.
- 2.The Taluk Surveyor,
Aathur Taluk,
Dindigul District.
- 3.The Inspector of Police,
Ambathurai Police Station,
Dindigul District.

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