



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.12.2020

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD)No.18174 of 2020

M.Maduraesan

... Petitioner

Vs.

1.The Commissioner,
O/o, the Commissioner,
Ramanathapuram Municipality,
Ramanathapuram District.

2.The Town Surveyor,
O/o, the Town Surveyor,
Ramanathapuram Municipality,
Ramanathapuram.

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a writ of Mandamus, directing the respondents No.1 & 2 to conduct a survey in the petitioner's land in Survey No.58, Ward-B, Block-8 in an extent of 0.0620 hectares situated at Muniyaswami Kovil Street, Ramanathapuram District, by considering the petitioner's representation, dated 29.07.2019 and mark the boundaries within the time stipulated by this Hon'ble Court.

For Petitioner	: Mr.T.Thirumurugan
For Respondents	: Mr.K.P.Krishnadoss Special Government Pleader

ORDER

The petitioner has come forward with this Writ Petition, seeking a direction to the respondents No.1 and 2 to conduct a survey in the petitioner's land in Survey No.58, Ward-B, Block-8 in an extent of 0.0620 hectares situated at Muniyaswami Kovil Street, Ramanathapuram District, by considering the petitioner's representation, dated 29.04.2019 and mark the boundaries within the time stipulated by this Court.

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. According to the petitioner, the property in Survey No.58, Ward-B, Block-8 to an extent of 0.0620 hectares situated at Muniyaswami Kovil Street, Ramanathapuram District, was purchased by his grandfather and thereafter, his father possessed the same and after the demise of his father, the petitioner is in possession and enjoyment of the subject property. The patta was transferred to the legal heirs including the petitioner on 30.08.2000. In order to fix the boundaries, on 28.03.2018 the petitioner made a representation to the respondents to survey his land in Survey No.58. Again the adjacent land owners tried to trespass the petitioner's land, the petitioner made a representation on 29.07.2019 for the same relief. 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 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(AD-II)

WEB COPY

// 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 Commissioner,
O/o, the Commissioner,
Ramanathapuram Municipality,
Ramanathapuram District.

2.The Town Surveyor,
O/o, the Town Surveyor,
Ramanathapuram Municipality,
Ramanathapuram.

+1 CC to Mr.T.THIRUMURUGAN, Advocate SR.No.24996
+1 CC to Mr. Special Government Pleader, SR.No.25130

W.P. (MD)No.18174 of 2020
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MR(CO)

TR(04.01.2021) 3P 5C