



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.02.2020

CORAM

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THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD)No.7093 of 2018

and

W.M.P. (MD)Nos.6801 and 17529 of 2018

Manikavel

... Petitioner

vs.

1. The District Revenue Officer,
Pudukottai, Pudukottai District.
2. The Revenue Divisional Officer,
Illuppur Division, Pudukottai District.
3. The Tahsildar,
Ponnamaravathy Taluk,
Ponnamaravathy, Pudukottai District.
4. Subbaiah Chettiar

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records pertaining to the impugned order passed by the first respondent in his proceedings Ni.Mu.Aa3/8561/2016, dated 29.12.2017 and quash the same as arbitrary, bias, illegal and without jurisdiction.

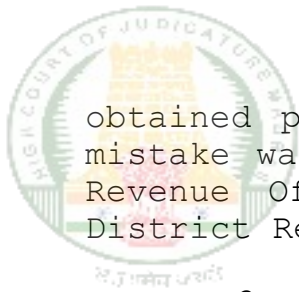
For Petitioner	: Mr.D.Parisuthanathan
For R1 to R3	: Mr.A.Muthu Karuppan Additional Government Pleader
For R4	: Mr.R.Ganesan

O R D E R

This Writ Petition is filed to quash the impugned order passed by the first respondent, dated 29.12.2017.

2.The petitioner stated to have purchased the property measuring to an extent of 7¾ cents. However, he has wrongly

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obtained patta during UDR for an extent of 10 cents. When this mistake was pointed out by the contesting respondent, the District Revenue Officer has passed the impugned order. The order of District Revenue Officer is put to challenge before this Court.

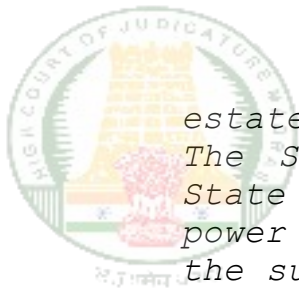
3.The petitioner in the affidavit filed in support of this petition submitted that during implementation of UDR scheme in the year 1985, there was a survey under the Tamil Nadu Survey and Boundaries Act 1923. It is the case of the petitioner that notice was issued to the petitioner and others under Section 9(2) of Tamil Nadu Survey and Boundaries Act 1923 and that after holding and conducting enquiry and calling for objections from the neighbouring owners, patta was issued to the petitioner under Section 9(2) of the Act. It is the further case of the petitioner that the dispute is settled and that after conducting survey and fixing boundary stones under the provisions of Tamil Nadu Survey and Boundaries Act 1923, the boundary cannot be questioned.

4.The learned Counsel for the petitioner has assumed that the notification reflecting the completion of survey, was published in the Government Gazette and that the dispute relating to the boundary settlement by publication of a notification under the Act cannot be challenged, unless a suit is filed within three years from the date of such publication. The learned Counsel has also produced before this Court, the copy of notice issued under Section 9(2) of the Act.

5.The petitioner has purchased the property in S.No.11/2B. It is the case of the petitioner that he purchased a smaller extent, however, as per boundary description, he is entitled to more extent. It is only for the purpose of fixing boundary, a notice was issued under the provisions of Tamil Nadu Survey and Boundaries Act 1923. It is also presumed by the petitioner that the enquiry under UDR scheme is only an enquiry as contemplated under Section 9(2) of the Tamil Nadu Survey and Boundaries Act 1923. The notice produced before this Court by the petitioner does not refer to the survey number, in respect of which such notice is given. It is to be seen that second notice is a notice issued to the petitioner under Section 9(2) of the Act.

6.It is further stated that the notice issued under Section 9(2) of the Act is in relation to Patta No.621. In the notice itself, it is mentioned that this notice is in respect of S.No.11/2B and was given in respect of an extent of 0.04.0 Hectare. No notice, which is stated to have been served to the petitioner, is shown to have been issued to others / neighbours. The Tamil Nadu Survey and Boundaries Act was enacted in 1923, primarily to settle the boundary dispute between the Government land the lands of others, which are adjoining the Government land. Section 17 of the Act reads as follows:

<https://hcservices.ecourts.gov.in/hcservices/> State Government may direct the survey of an



estate in certain cases.-

The State Government or subject to the control of the State Government any office or authority to whom this power may be delegated by it, may by notification direct the survey of any estate or portion of an estate or of any boundary therein-

(a) on the application in writing of the proprietor of such estate or, in the case of a boundary, of any person interested therein; or

(b) without such application wherever in the opinion of the State Government such survey is necessary-

(i) for the better or more convenient assessment or levy of irrigation cess;

(ii) for any other reason to be recorded prior to the issue of such notification."

7.Of course, Section 17 of the Act contemplates survey of private land or part of an estate and the power also can be delegated by the Government for the purpose of survey and the power will be delegated to any one by the State Government for the better or more convenient assessment or levy of irrigation cess or for any other reasons to be recorded prior to the issue of such notification. It is to be noted that survey under the Tamil Nadu Survey and Boundaries Act also can be at the instance of a proprietor of an estate or in the case of a boundary affecting any person interested therein. The petitioner has not produced any application for survey of an estate as contemplated under the Tamil Nadu Survey and Boundaries Act 1923. No decision or order of the authority under the Act is produced before this Court to show that there was a survey delimiting the property of petitioner as per the document of title after issuing notice to others. Under Section 9(1) of the Act, the Survey Officer has power to determine and record an undisputed boundary in respect of which no dispute is brought to notice. However, under Section 9(2) of the Act, notice of every decision of the Survey Officer under Section 9(1) shall be given in the prescribed manner to the registered holders of the lands, the boundaries of which may be affected by the decision. The patta issued during UDR in favour of the petitioner for an extent of 0.04.0 Hectares would clearly indicate that the patta was issued to the petitioner during UDR and not after a survey under the provisions of Tamil Nadu Survey and Boundaries Act 1923. Even if a survey is done to resolve a boundary dispute the decision should be communicated to all the persons interested.

8.The petitioner appears to have produced a notice for the purpose of linking his UDR patta as one granted pursuant to a survey under Tamil Nadu Survey and Boundaries Act 1923. Before the District Revenue Officer, the petitioner never contended that a notification was published regarding survey under the Act. The Tahsildar, Ponnamaravathi in his report dated 07.12.2017 has



observed that the petitioner has purchased the property by 1984 document measuring to an extent of $7\frac{3}{4}$ cents and that the modification of extent was only during natham settlement. Therefore, the recommendation of Tahsildar also was to restrict the patta in favour of petitioner only for an extent of $7\frac{3}{4}$ cents.

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9.The learned Counsel for the petitioner has made a legal submission that survey, which was conducted and finalised under the provisions of Tamil Nadu Survey and Boundaries Act 1923, cannot be altered by the District Revenue Officer in exercise of his power. He further stated that finality under the Tamil Nadu Survey and Boundaries Act cannot be questioned before this Court or before the District Revenue Officer without filing a civil suit as contemplated under Section 14 of the Act. The petitioner has not produced any record to show that a survey was conducted at his instance for fixing boundary of his land after issuing notice to all persons interested. Unless the decision under Section 9 or Section 10 is served to the interested persons, mere survey will not help the petitioner. The petitioner has not produced any notification published in District Gazette to infer finality.

10.The petitioner has come forward with the false case and tried to mislead the Court by producing a notice, which would never indicate a decision as contemplated under Sections 9 or 10 of the Act VIII of 1923. The petitioner has not produced any record to show that a survey was conducted after issuing notice to all the owners, who were also enquired by the District Revenue Officer before passing the impugned order. No application filed before the authority under the Tamil Nadu Survey and Boundaries Act is produced before this Court to suggest that the petitioner had ever applied for a survey to fix boundary. It is in these circumstances, this Court is of the view the petitioner has come forward with unclean hands with false case to defeat the lawful holdings of third parties. His claim for more extent than he got under his title deed is unsustainable.

11.Hence, this Writ Petition is dismissed with a cost of Rs.2,000/- to the credit of "Sidha Clinic" within a period of two weeks from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed. Post the matter after three weeks for reporting compliance.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



To

1. The District Revenue Officer,
Pudukottai,
Pudukottai District.
2. The Revenue Divisional Officer,
Illuppur Division,
Pudukottai District.
3. The Tahsildar,
Ponnamaravathy Taluk,
Ponnamaravathy,
Pudukottai District.

Copy To:-

The Section Officer,
Writ Section,
Madurai Bench of Madras High Court,
Madurai.

+2 CC to M/s.D.PARISUTHANATHAN, Advocate (SR-8998[F] dated 27/02/2020)
+2 CC to M/s.KL.RM.MEIIYAPPAN, Advocate (SR-9013[F] dated 27/02/2020)

CMR

TE : 09/03/2020 : 5P/9C

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