



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.12.2020

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD)No.18423 of 2020

K.Suryaprasanna

... Petitioner

Vs.

1.The Tahsildar,
Tahsildar Office,
Eral Taluk,
Thoothukudi District.

2.The Taluk Surveyor,
Taluk Office,
Eral Taluk,
Thoothukudi District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a writ of Mandamus, directing the respondents to survey and demarcate the petitioner's land comprised in Survey No.536/13, situated at Rajapathi Village, Eral Taluk, Thoothukudi District, based on the application dated 19.11.2020 submitted to the respondents, within the time frame that may be fixed by this Court.

For Petitioner	: Mr.S.Mandhiralingeswaran
For Respondents	: Mr.K.P.Krishnadoss Special Government Pleader

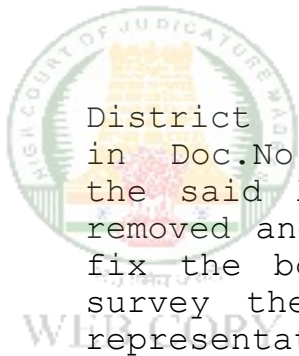
ORDER

The petitioner has come forward with this Writ Petition, seeking a direction to the respondents to survey and demarcate the petitioner's land comprised in Survey No.536/13, situated at Rajapathi Village, Eral Taluk, Thoothukudi District, based on the application dated 19.11.2020 submitted to the respondents, within the time frame that may be fixed 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 vacant land comprised in S.No.536/13, situated at Rajapathi Village, Eral Taluk, Thoothukudi



District acquired by the petitioner through a gift settlement deed in Doc.No.2095/2019. The petitioner wanted to construct a house in the said land and found that some of the boundary stones were removed and could not be traced out. At this juncture, in order to fix the boundaries, the petitioner approached the respondents to survey the property and in this regard, the petitioner made a representation to the respondents on 19.11.2020. However, the same has not been considered so far. In such circumstances, the petitioner has approached this Court.

5. It is represented by the learned Special Government Pleader that there are other persons, who are interested in the said property.

6. 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. At the time of enquiry, the Tahsildar may enquire all the parties concerned as the petitioner has not made other interested persons as a party to the present writ petition. The conduct of the petitioner in non-inclusion of the necessary persons in the writ petition as a party respondents, is highly deprecated. 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.

7. 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



a false affidavit, if appropriate action is taken, the person concerned will have to face imprisonment rather than fine.

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

WEB COPY

Sd/-

Assistant Registrar (Crl.Side)

// 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 Tahsildar,
Tahsildar Office,
Eral Taluk,
Thoothukudi District.

2.The Taluk Surveyor,
Taluk Office,
Eral Taluk,
Thoothukudi District.

+1cc to Special Government Pleader, Sr.No.26049

W.P. (MD)No.18423 of 2020

16.12.2020

SS (CO)

NR (06/01/2020) 3P : 4C