



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.12.2020

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD)No.18786 of 2020

Thangavel

... Petitioner

Vs.

1.The Tahsildar,
Thanjavur Taluk Office,
Thanjavur City and District.

2.The Taluk Surveyor,
Thanjavur Taluk Office,
Thanjavur City and District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a writ of Mandamus, directing the respondents to effect subdivision of the petitioner's extent of 1.79.35 H.a out of the total extent of 2.30.10 H.a, survey and measure the petitioner's lands in Survey Field No.65/2C1A1A1A, Pudhupattinam Village, Thanjavur Taluk & District pursuant to the petitioner's representations dated 20.02.2019 and 31.10.2020.

For Petitioner : Mr.N.Dilipkumar
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 effect subdivision of the petitioner's extent of 1.79.35 H.a out of the total extent of 2.30.10 H.a, survey and measure the petitioner's lands in Survey Field No.65/2C1A1A1A, Pudhupattinam Village, Thanjavur Taluk & District pursuant to the petitioner's representations dated 20.02.2019 and 31.10.2020.

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

3. Heard the learned counsel appearing for the petitioner as well as Mr.K.P.Krishnadoss, learned Spceial Government Pleader, who accepts notice on behalf of the respondents.



4. According to the petitioner an extent of 13+ acres of land belonged to Chidambaram Chettiar in Pudhupattinam revenue Village, Keezhavasthachavadi, Thanjavur Taluk and Division. Similarly an extent of 10+ acres of land belonged to one Ramanathan Chettiar, an extent of 18+ acres of land belonged to one Meiyappa Chettiar, an extent of 5+ acres of land belonged to one Palaniappan Chettiar. Together they owned a total extent of 47.5 acres of land. They had inducted M/s.Subbrarnanian, Balasubramaian and Kandasamy as their lessees in respect of the subject lands under separate lease deeds, all dated 10.08.2001 and these original owners had executed registered sale deeds in respect of 47.5 acres of land in favour of the petitioner, his wife and son dated 22.05.2017, 01.10.2018, 24.10.2018 and 02.11.2018 respectively. The petitioner, his wife and son had entered into separate agreements all dated 25.09.2018 with M/s.Subbramanian, Balasubramanian and Kandasamy for the purpose of extinguishing their leasehold rights, obtained from the original owners under documents dated 10.08.2001. Thereafter, the petitioner's family is in possession and enjoyment of the said property. The petitioner have inducted M/s.Marimuthu, Sasikumar, Sivakumar, Subramanian and Kaliyaperumal as lessees for the purpose of cultivating those lands on 26.01.2019. But, the lessees jointly mortgaged the subject lands with ICICI Bank for an agricultural loan of Rs.50,00,000/- under Document No.463/2019 dated 01.02.2019. in the meantime, some third parties and erstwhile lessees are attempted to interfere with the petitioner's peaceful possession and they filed O.S.Nos.61, 62 and 63 of 2017 for permanent injunction and C.R.P(MD).Nos. 2482, 2485 and 2486 of 2017 were filed by the original owners before this Court. By a common order, dated 21.08.2018, these suits had been struck off. In these circumstances proceedings under Section 145 CRPC was initiated at the behest of the Deputy Superintendent of Police, Vallam Division by the Sub-Divisional Magistrate/Revenue Divisional Officer, Thanjavur. At the time of enquiry, the petitioner submitted all the necessary documents, but the rival group did not produce any single record to substantiate their false claim of possession over the properties and after completion of the enquiry, the learned Sub-Divisional Magistrate had held that the possession of the property had been with 'B' party and restrained 'A' party from interfering with the petitioner's peaceful possession and enjoyment, which is subsequently challenged. In the meanwhile, the petitioner sent a representation dated 20.02.2019 and 31.10.2020 to the respondents to survey and fix the boundaries of their lands. 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 respondents, more particularly, the second respondent to survey the property of the petitioner, after affording opportunity to the petitioner as well as the adjacent land owners and the other 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 (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,
Thanjavur Taluk Office,
Thanjavur City and District.

2.The Taluk Surveyor,
Thanjavur Taluk Office,
Thanjavur City and District.

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VB (05.02.2021) 4P 3C