



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.12.2020

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD)No.19242 of 2020

1.V.Lakshmanan
2.V.Ramakrishnan

... Petitioners

Vs.

1.The Tahsildar,
Aundipatti Taluk Office,
Aundipatti,
Theni District.

2.The Taluk Head Surveyor,
Aundipatti Taluk Office,
Aundipatti,
Theni District.

3.M.Balaguru
4.Kanna Mani
5.Rajammal
6.Chandra
7.M.Kalidasan
8.Pothukponnu
9.S.Velusamy
10.Selvi
11.Rajeshwari
12.D.Prabhakaran
13.S.Natarajan
14.S.Bharathan

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a writ of Mandamus, directing the respondents 1 and 2 to survey, measure and demarcate the lands in Survey Nos.559/1A1 & 559/3 admeasuring 40.5 and 14.00 Ares respectively, in Aundipatti Bit-I Revenue Village, Aundipatti Taluk, Theni District in the light of the petitioner's payment challan dated 07.08.2020 and the petitioner's reminder/representation dated 03.12.2020.

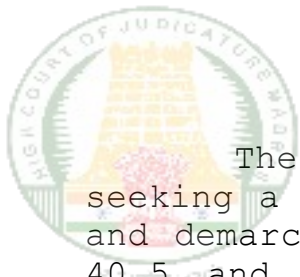
For Petitioners

: Mr.N.Dilip Kumar

For Respondents 1 and 2

: Mr.K.P.Krishnadoss

Special Government Pleader



ORDER

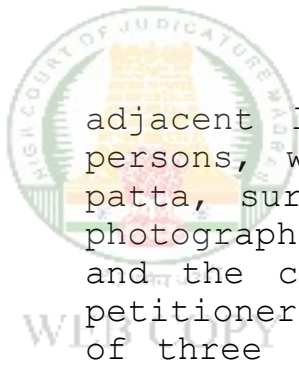
The petitioners have come forward with this Writ Petition, seeking a direction to the respondents 1 and 2 to survey, measure and demarcate the lands in Survey Nos.559/1A1 & 559/3 admeasuring 40.5 and 14.00 Ares respectively, in Aundipatti Bit-I Revenue Village, Aundipatti Taluk, Theni District in the light of the first petitioner's payment challan dated 07.08.2020 and the second petitioner's reminder/representation dated 03.12.2020.

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 petitioners as well as Mr.K.P.Krishnadoss, learned Special Government Pleader, who accepts notice on behalf of the respondents 1 and 2. Since no adverse order is going to be passed against the respondents 3 to 14, notice to them is dispensed with.

4. According to the petitioners, the property comprised in Old Survey No.559 to an extent of 1.90 acres is the ancestral property of the petitioner. Patta No.1220 for the said lands stood in the name of the grandfather of the petitioners, Ramakrishna Aiyar and his brother Kunna Aiyar. It was later reclassified as Survey No.559/1 and registered in the name of the petitioners' ancestors. The names of the sons of Ramakrishna Aiyar and Kunna Aiyar came to be registered in the revenue records in Patta No.1220 for the said lands vide TK.8A-109-67 dated 15.04.1958. It was then sub-divided into 559/1A1, 559/1A2, 559/1B and 559/3. A portion of the lands were acquired for Harijan Colony and some other for the panchayat road. However, the lands in Survey Nos.559/1A1 and 559/3 to an extent of 14.5 and 14.00 Ares, respectively, continued to remain registered in the name of the sons of the petitioners' father and his brother. The petitioners have a joint title, right, possession and enjoyment in respect of the subject lands with their cousins. In such circumstances, the names of the other private respondents came to be included in the Patta for the subject lands. Hence, the petitioners sent application dated 12.04.2018 before the revenue authorities seeking removal of the names of the private respondents from the joint patta. Thereafter, the petitioners sent a representation dated 03.12.2020 to survey the lands and fix the boundaries. However, the same has not been considered so far. In such circumstances, the petitioners have approached this Court.

5. This Court, without going into the merits of the case and without passing any adverse order against the private respondents, directs the respondents, more particularly, the second respondent to survey the property of the petitioners, after affording opportunity to the petitioners 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 petitioners and the costs of Photograph and Videograph to be borne by the petitioners. 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 petitioners, 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 petitioners 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 (RECORDS)

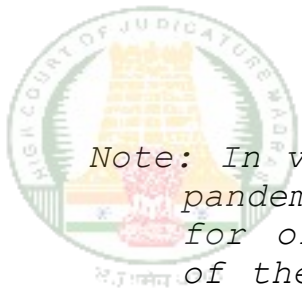
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Sub Assistant Registrar(CS)

PJL

<https://hcservices.ecourts.gov.in/hcservices/>



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,
Aundipatti Taluk Office,
Aundipatti,
Theni District.

2.The Taluk Head Surveyor,
Aundipatti Taluk Office,
Aundipatti,
Theni District.

+1 cc to Mr.N.Dilip Kumar , Advocate SR.No.26480

W.P. (MD)No.19242 of 2020
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