



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE S. VAIDYANATHAN

W.P. (MD)No.19120 of 2020

A.Mani,
S/O.Ayyavu,
Hereditary Poojari,
Arulmighu Alagunachiyamman Koil,
Vembarali, Parali Post,
Natham Taluk,
Dindigul District.

... Petitioner

-VS-

1.The Tahsildar,
Madurai North Taluk,
Madurai.

2.The Head Taluk Surveyor,
Madurai North Taluk,
Madurai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents herein to conduct survey, measure and fix boundaries of temple property comprised in Survey No.11/1 and 11/2 measuring 73 Ares situated at Kadavur, Chathirapatti Village, Madurai North Taluk, Madurai District within a reasonable time.

For Petitioner : Mr.Aayiram K. Selvakumar

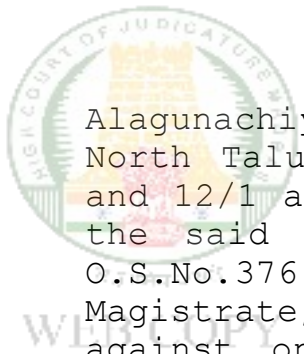
For Respondents : Mr.M.Pandiya Rajan
Additional Government Pleader

ORDER

This writ petition is filed, seeking issuance of a Writ of Mandamus directing the respondents herein to conduct survey, measure and fix boundaries of temple property comprised in Survey No.11/1 and 11/2 measuring 73 Ares situated at Kadavur, Chathirapatti Village, Madurai North Taluk, Madurai District within a reasonable time.

2.Heard the learned Counsel appearing for the petitioner and Mr.M.Pandiya Rajan, learned Additional Government Pleader, who took notice for the respondents. By consent, the Writ Petition is taken up for disposal at the stage of admission itself.

3.The learned Counsel appearing for the petitioner would submit to the court that the petitioner is the Hereditary Poojari of Arulmighu



Alagunachiyamman Koil at Kadavur, Chathirapatti Village, Madurai North Taluk, Madurai. The said temple is situated in S.No.11/1 and 12/1 at Kadavur Village and Patta No.28 stands in the name of the said temple. Earlier, the petitioner had filed a suit in O.S.No.376 of 2004 on the file of the District Munsif cum Judicial Magistrate, Melur for declaration and recovery of possession against one Gopalsamy and others and the same was dismissed. However, the petitioner succeeded in the appeal in A.S.No.9 of 2019 filed before the Sub Court, Melur and against which, second appeal is preferred in S.A.(MD)No.530 of 2020 before this Court. Since the petitioner wanted to construct a temple in the said land, he made representations before the first respondent on 09.10.2020 and 24.11.2020 seeking to survey the land and fix the boundaries. Since there was no response from the first respondent, the petitioner has come forward with the present Writ Petition.

4.Mr.M.Pandiya Rajan, learned Additional Government Pleader appearing for the respondents would submit that the respondents have already fixed the date as 28.12.2020 for conducting the survey of the petitioner's property and it will be conducted after notice to all the parties.

5.Considering the submission of the learned Additional Government Pleader that the respondents are going to conduct the survey on 28.12.2020, the first respondent shall conduct the survey of the petitioner's property, after hearing the persons who are likely to be affected and in the light of the judgment made in W.P.(MD)No.13465 of 2020, dated 13.10.2020 and in case of issuance of patta, after survey, the directions issued by this Court in W.P(MD).No.7746 of 2020 batch, dated 23.09.2020 should 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. With the above directions, the writ petition, is disposed of. No costs.

Sd/-

Assistant Registrar (CRL.SIDE)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

SRM

To

1. The Tahsildar,
Madurai North Taluk,
Madurai.

2. The Head Taluk Surveyor,
Madurai North Taluk,
Madurai District.

+1 cc to The Special Government Pleader Sr.No.27255

W. P (MD) No. 19120 of 2020

23.12.2020

KM (07.01.2021) 3P 4C