



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.12.2020

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD)No.19269 of 2020

Pallakku

... Petitioner

Vs.

1.The Tahsildar,
Usilampatti Taluk,
Madurai District.

2.The Taluk Head Surveyor,
Usilampatti Taluk,
Madurai 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 in Survey No.46/3B2A to an extent of 0.48.25 Ares situated at Muthalaikulam Village, Usilampatti Taluk, Madurai District, based on the application dated 03.10.2020 within a time stipulated by this Court.

For Petitioner : Mr.R.Selvaraj

For Respondents : Mr.M.Muniyasamy

Additional 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 property in Survey No.46/3B2A to an extent of 0.48.25 Ares situated at Muthalaikulam Village, Usilampatti Taluk, Madurai District, based on the application dated 03.10.2020 within a time stipulated 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.M.Muniyasamy, learned Additional Government Pleader accepts notice on behalf of the respondents.

4. According to the petitioner, the property comprised in S.No.46/3B2A, to an extent of 0.48.25 Ares, situated at Muthalaikulam Village, Usilampatti Taluk, Madurai District was executed by the petitioner's father to the petitioner and other legal heirs through gift deed dated 27.05.2019. After registered the gift deed, the legal heirs have partitioned the said property and the property in the above said survey number was allotted to the petitioner. In order to fix four boundaries, the petitioner approached the respondents to survey the property and in this regard, the petitioner made a representation to the respondents on



03.10.2020. 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 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 (CSII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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,
Usilampatti Taluk,
Madurai District.

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

+1CC to M/s.SPL GP,SR.No.27264 dated 28/12/2020

W.P. (MD) No.19269 of 2020
23.12.2020

KMV (CO)
KB(19.01.2021) 3P 4C