



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.12.2020

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD) No.19267 of 2020

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Nathchal

... Petitioner

Vs.

1.The District Collector,
Office of the District Collector,
Sivagangai,
Sivagangai District.

2.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Devakottai,
Sivagangai District.

3. The Tahsildar,
Office of the Tahsildar,
Karaikudi,
Sivagangai District.

4.The Surveyor,
Office of the Surveyor,
Karaikudi, Sivagangai 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 the petitioner's land in Sivagangai District, Karaikudi Taluk, Kallal village old Survey No.228/2A1A, New Survey No.228/15 situated at Sivagangai District, Karaikudi Taluk, Kallal Village, in Patta No.1134 as per the Karaikudi Sub Registrar Office Document No.2020/2008 dated 18.03.2008 by considering the petitioner's representation dated 07.12.2020 in accordance with law within the time stipulated by this Court.

For Petitioner	: Mr.K.Muthuvai Ilayaraja
For Respondents	: Mr.M.Pandiya Rajan Additional Government Pleader

ORDER

The petitioner has come forward with this Writ Petition, seeking a direction to the respondents to survey the petitioner's land in Survey No.228/2A1A, New Survey No.228/15 situated at Sivagangai District, Karaikudi Taluk, Kallal Village, in Patta No.1134 as per the Karaikudi Sub Registrar Office Document No.2020/2008 dated 18.03.2008 by considering the petitioner's representation dated 07.12.2020 in accordance with law within the time stipulated by this Court.

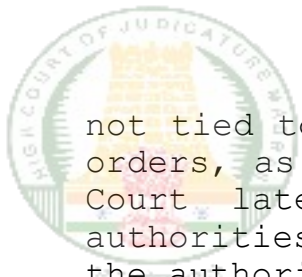


2. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3. Mr.M.Pandiya Rajan, learned Additional Government Pleader accepts notice on behalf of the respondents.

4. The case of the petitioner is that the petitioner purchased the property comprised in Survey No.228/2A1A, New Survey No.228/15 situated at Sivagangai District, Karaikudi Taluk, Kallal Village, in Patta No.1134 as per the Karaikudi Sub Registrar Office Document No.2020/2008 dated 18.03.2008. For her personal expenses, the petitioner pledged the said property to one Chithra for a sum of Rs.6,00,000/-. Later, the said Chithra with a malafide intention to purchase the said land for cheapest price threatened the petitioner to register the said land in her name and filed O.S.No.213 of 2017 before the Sub Court, Devakottai and the said suit was decreed in favour of the said Chithra. Hence, the petitioner filed an appeal before the Sivagangai Court. At this juncture, the adjacent land owners also trespassed into her land and broken the iron fencing. Therefore a complaint was lodged by the petitioner before the Inspector of Police, Kallal Police Station. Because of the above complaint, the fourth respondent denied to survey the petitioner's land. In the meanwhile, with collusion of the above said Chithra and the adjacent land owners, the Kallal 2nd Ward member, namely, Anjali, filed a suit in O.S.No.320 of 2020 to remove the encroachment of the public pathway. But as per the revenue records, there is no public pathway laid on the petitioner's land. Hence, in order to fix the four boundaries, the petitioner made a representation to the respondents on 07.12.2020. 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 fourth 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.

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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 (AD II)

// 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 District Collector,
Office of the District Collector,
Sivagangai, Sivagangai District.

2.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
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Sivagangai District.



3. The Tahsildar,
Office of the Tahsildar,
Karaikudi,
Sivagangai District.

4. The Surveyor,
Office of the Surveyor,
Karaikudi,
Sivagangai District.

+1cc to M/s.Special Government Pleader, SR No.27270

W.P. (MD) No.19267 of 2020
23.12.2020

MK (CO)
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