



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE S. VAIDYANATHAN

W.P. (MD)No.19225 of 2020

S.Mahendran

... Petitioner

-VS-

1.The Land Surveyor,
Land Survey Department,
Tahsildar Office,
Tenkasi District.

2.The Tahsildar,
Tenkasi 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 to measure, demark the petitioner's property in Survey No.5/1, Melagaram Village, Joint No.2, Sub Registrar Office, Tenkasi District in the light of the petitioner's representation dated 07.11.2020.

For Petitioner : Mr.Kevinkaran, K

For Respondents : Mr.P.Kannithevan
Additional Government Pleader

ORDER

This writ petition is filed, seeking issuance of a Writ of Mandamus to direct the respondents to measure and demarcate the petitioner's property in Survey No.5/1, Melagaram Village, Joint No.2, Sub Registrar Office, Tenkasi District, in the light of his representation dated 07.11.2020.

2.Heard the learned Counsel appearing for the petitioner and Mr.P.Kannithevan, 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 that the grandfather of the petitioner had purchased the property in Survey No.5/1 situated at Melagaram Village, Tenkasi



District and after the demise of his grandfather and his father, the family members have executed a gift deed in respect of the above property to the petitioner on 12.04.2018. When the petitioner proceeded to construction a house in the said property, the adjacent land owners claimed pathway right measuring to an extent of 6 ft. width and 22 ft. length and prevented the petitioner to proceed with the construction, though he has left a space of more than 1½ ft. excluding their pathway. Therefore, the petitioner made a representation before the respondents on 07.11.2020 seeking to measure and demarcate the boundaries of his land. Since the said representation has not been considered by the respondents so far, the petitioner has come forward with the present Writ Petition.

4.Mr.P.Kannithevan, learned Additional Government Pleader appearing for the respondents would submit that the respondents will consider the representation of the petitioner and survey the land after issuing notice to the necessary parties.

5.This Court without going into the merits of the matter, direct the second respondent to consider the representation of the petitioner dated 07.11.2020 and 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.



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7. With the above directions, the writ petition, is disposed of. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

SRM

To

1. The Land Surveyor,
Land Survey Department,
Tahsildar Office,
Tenkasi District.

2. The Tahsildar,
Tenkasi District.

+1 cc to The Special Government Pleader Sr.No.27253

W. P (MD) No. 19225 of 2020
23.12.2020

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