



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.11.2020

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD)No.5679 of 2018

and

W.M.P. (MD)No.5552 of 2018

V.Narayanan

... Petitioner

-Vs-

1.The District Collector,  
Madurai District, Madurai.

2.The Tahsildar,  
Tahsildar Office, Vadipatti,  
Madurai District.

3.The Head Surveyor,  
Tahsildar Office, Vadipatti,  
Madurai District.

4.The Village Administrative Officer,  
A.Pudhupatti Village,  
Alanganallur, Vadipatti Taluk,  
Madurai District.

5.K.Gurunathan

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a writ of Mandamus, directing the respondents 2 to 4 not to make any survey or to fix any boundaries in Survey No.314/2G, Door No.3-4-127A, A.Pudupatti Village, Vadipatti Taluk, Madurai District at the instance of the 5<sup>th</sup> respondent.

For Petitioner : Mr.S.J.Chakkkaravarthy

For R1 to R4 : Mr.M.Pandiya Rajan,  
Additional Government Pleader.

For R5 : Mr.S.C.Herold Singh

#### ORDER

The petitioner has come forward with this Writ Petition, seeking a direction to the respondents 2 to 4 not to make any survey or to fix any boundaries in Survey No.314/2G, Door No.3-4-127A, A.Pudupatti Village, Vadipatti Taluk, Madurai District at the instance of the 5<sup>th</sup> respondent.

<https://hccservices.mca.gov.in/home>

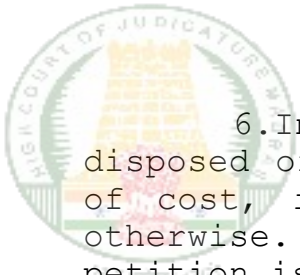


2. According to the petitioner, his father, namely Velu Aasari was having two wives, namely, Alagammal and Ayyammal. The petitioner, his brothers namely, Karuppaiah and Velumayil are the sons of Alagammal. The said Ayyammal was having no issue. In the year 1981, the said Ayyammal had purchased the property in Survey No.314/2G to an extent of 6 cents. Thereafter, she had sold two cents in the said survey number and died in the year 1995. During her life time, the property in Survey No.314/2G to an extent of 4 cents was equally divided into three portions. In the portion of the petitioner, he has constructed a house and is living there for more than 20 years and Door No.3-4-127A was allotted to the petitioner's portion. Thereafter, the 5<sup>th</sup> respondent, who is the son of the said Karuppaiah had created several troubles to the petitioner by showing that the Gift Deed was executed by the said Karuppaiah in favour of the 5<sup>th</sup> respondent in respect of the above said property to the extent of 4 cents, which was disputed by the petitioner and his family members. The 5<sup>th</sup> respondent has filed a Civil Suit against the petitioner in O.S.No.97 of 2015 before the District Munsif, Vadipatti, seeking declaration and recovery of possession and the same was not pressed by the 5<sup>th</sup> respondent on 24.10.2017 without giving notice to the petitioner. However, the respondents 2 to 4 are trying to enter into the house of the petitioner and survey his property without issuing notice to the petitioner. Hence, the petitioner has approached this Court, seeking aforesaid prayer.

3. When the matter is taken up for hearing, the learned counsel appearing for the petitioner submitted that a Civil Suit in O.S.No.57 of 2018 is pending on the file of the District Munsif, Vadipatti.

4. This Court is of the considered opinion that already a Civil Suit in O.S.No.57 of 2018 is pending before the District Munsif, Vadipatti and this Court cannot issue any direction not to make any survey. If such a direction is given, it will curtail the powers of the Civil Court and the Court cannot exercise its discretion to pass any interim order appointing a Commissioner to conduct survey.

5. According to the petitioner, his land has also been included by the contesting respondent by means of settlement deed and the 5<sup>th</sup> respondent is trying to dispossess the property. As the matter is subjudice before the Civil Court, the said Civil Court will take note all the objections made by the petitioner and in case the settlement deed is genuine and the 5<sup>th</sup> respondent is trying to dispossess the property of the petitioner, heavy cost of not less than Rs.5,00,000/- (Rupees Five Lakhs Only) may be imposed on the 5<sup>th</sup> respondent by the Civil Court.



6. In view of the above observation, this Writ Petition stands disposed of. The observation made in this order except imposition of cost, is only for the disposal of the Writ Petition and not otherwise. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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*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 Munsif,  
Vadipatti.
2. The District Collector,  
Madurai District, Madurai.
3. The Tahsildar,  
Tahsildar Office, Vadipatti,  
Madurai District.
4. The Head Surveyor,  
Tahsildar Office, Vadipatti,  
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5. The Village Administrative Officer,  
A. Pudhupatti Village,  
Alanganallur, Vadipatti Taluk,  
Madurai District.

+1 CC to Mr.S.J. CHAKKKARAVARTHY, Advocate ( SR-21186[F] dated 04/11/2020 )

+1 CC to SPL GP ( SR-21447[F] dated 06/11/2020 )

Order made in

**W.P. (MD)No.5679 of 2018**

**04.11.2020**