



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE S. VAIDYANATHAN

W.P. (MD)No.14172 of 2018

and

W.M.P. (MD)No.12856 of 2018

Murugesan

... Petitioner

-vs-

1.The Tahsildar,
Palani Taluk,
Dindigul District.

2.The Head Surveyor,
Palani Taluk Office,
Palani, Dindigul District.

3.Ganesan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus forbearing the respondents 1 and 2, their subordinates or anyone claiming right under them from surveying the properties in Survey Nos.198/3B2 and 198/3B1 situated at West Ayakudi Village, Palani Taluk, Dindigul District on the basis of the notice issued from the office of the first respondent dated 26.05.2018.

For Petitioner : Mr.D.Venkatesh
For Respondents 1 & 2 : Mr.M.Pandiya Rajan
Additional Government Pleader
For Respondent 3 : Mr.S.Karthik

ORDER

This Writ Petition has been filed for issuance of Writ of Mandamus forbearing the respondents 1 and 2, their subordinates or anyone claiming right under them from surveying the properties in Survey Nos.198/3B2 and 198/3B1 situated at West Ayakudi Village, Palani Taluk, Dindigul District on the basis of the notice issued from the office of the first respondent dated 26.05.2018.

2.Heard the learned Counsel appearing for the petitioner, Mr.M.Pandiya Rajan, learned Additional Government Pleader appearing for the respondents 1 and 2 and Mr.S.Karthik, learned Counsel appearing for the third respondent.



3. According to the petitioner, the third respondent is not at all a party to the civil suit in O.S.No.23 of 2011 on the file of the District Munsif Court, Palani, filed by M.Balakrishnan and M.Venkateswaran, seeking partition and separate possession of plaintiffs' 1/3rd share by metes and bounds and also for declaration that the sale deed dated 03.12.2010 executed by defendants 1,2,3 and 4 in favour of the defendants 6,7 and 8 as null and void in respect of the plaintiffs' 1/3rd share in the suit properties and for consequential permanent injunction. In the said suit, the first defendant is A.Ganesan, son of Alagendrasamy Naidu and the third respondent herein is T.Ganesan, son of Thannasi, therefore, he is completely a different person. However, the third respondent approached this Court earlier by filing a Writ Petition in W.P.(MD) No.23829 of 2017 seeking to consider his representation for surveying the properties and this Court by order dated 22.12.2017 disposed of the same with a direction to the first respondent therein to consider the said representation and pass appropriate order in accordance with law on or before 31.03.2018. Pursuant to the said order, the respondents 1 and 2 herein issued a notice to the petitioner for surveying the property in question and the petitioner also made his objection. However, the respondents 1 and 2 are trying to survey the property pending civil suit. According to the petitioner, the third respondent had obtained the order by suppressing the fact that a civil suit is pending.

4. According to the third respondent, the petitioner is aware the fact that the suit cannot be accepted because the petitioner is completely a different person and he was not a party to the suit. The third respondent has also got a judgment and decree in his favour and that an appeal is also pending before the Revenue Divisional Officer, Palani for cancellation of patta and sub-division.

5. Considering the facts and circumstances of the case and that there is no suit is pending, the Revenue Divisional Officer, Palani, before whom an appeal is pending, shall conduct an enquiry after hearing the petitioner and the third respondent and decide the issue in accordance with law within a period of 90 days from the date of receipt of a copy of this order.

6. This Writ Petition is disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar()

//True copy//

/ /2021
Sub Assistant Registrar



To

1.The Revenue Divisional Officer,
Palani.

2.The Tahsildar,
Palani Taluk,
Dindigul District.

3.The Head Surveyor,
Palani Taluk Office,
Palani, Dindigul District.

+1 CC to THE SPECIAL GOVERNMENT PLEADER (SR-23349[F] dated 30/11/2020)

+1 CC to Mr.S.KARTHIK, Advocate (SR-23082[F] dated 27/11/2020)

Order made in
WP (MD) No.14172 of 2018 and
WMP (MD) No.12856 of 2018
26.11.2020

SRM
SRS/05.02.2021/3P/6C