



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**
AND
THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

Cont.P.(MD)No.971 of 2018
in
WA(MD)No.1 of 2018

C.Ramraj : Petitioner/1st Respondent

Vs.

1. Yogaraj
The District Surveyor,
O/o. the District Surveyor,
District Collector Campus,
Dindigul District.

2. Leela Regina,
The Tahsildhar,
Oddanchatram,
Dindigul District.

: Contemnors/Respondents 2 & 3

PRAYER: Petition filed under Section 11 of the Contempt of Court Act, 1971, praying to initiate contempt proceedings against the Contemnors/Respondents and punish them for the willful disobedience of the order of this Hon'ble Madurai Bench of Madras High Court in W.P.(MD)No.20320 of 2016, dated 21.10.2016 and in W.A.(MD)No.1 of 2018 and C.M.P.(MD)No.25 of 2018, dated 02.01.2018.

Prayer in WP(MD). 20320/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the respondent No.2 to survey the land of the petitioner at in Survey No.845/1, Puliyurnatham Village, Oddanchatram Taluk, Dindigul District and install the boundary stones with adequate police protection within the stipulated time prescribed by this Honble Court.

Prayer in WA(MD). 1/ 2018 :

Writ Appeal filed under Clause 15 of Letters Patent, against order made in W.P.(MD).No.20320 of 2016 dated 21.10.2016 on the file of this Court.



Prayer in CMP(MD). 25/ 2018 :

To dispense with the production of original order in W.P. (MD).No.20320 of 2016 dated 21.10.2016 for the present and thus render justice.

WEB COPY

For Petitioner : Mr.T.Lajapathi Roy
For Respondents : Mr.D.Muruganantham
Additional Government Pleader

ORDER

(Order of the Court was made by **S.S.SUNDAR, J.**)

The petitioner earlier filed a Writ Petition for issuing a Writ of Mandamus directing the second respondent, namely, the Tahsildar, Oddanchatram, to survey the land of the petitioner in Survey No.845/1 in Puliyurnatham Village, Oddanchatram Taluk, Dindigul Taluk and install the boundary stones with adequate police protection within the stipulated time.

2.The learned Single Judge of this Court, by order, dated 21.10.2016, directed the Tahsildar concerned to conduct survey of petitioner's land with the help of Surveyor and pass orders on merits and in accordance with law, after issuing notice to the petitioner as well as the neighbouring land owners, with reference to the revenue records and the petitioner's title deeds, within a period of eight weeks from the date of receipt of a copy of the order. It appears that a third party to the Writ Petition filed by the petitioner, who happened to be a neighbour of the petitioner's land, filed a Writ Appeal before this Court in W.A. (MD) No.1 of 2016 challenging the order of this Court. Since the direction of the learned Single Judge was also to hear the neighbouring land owners, this Court, with an observation that the appellant also can submit a representation with supporting documents to the Tahsildhar, disposed of the Writ Appeal. The petitioner has now filed this contempt petition saying that the direction of this Court has not been complied with. The petitioner has produced before this Court earlier the sale deed dated 06.12.2001 under which he claimed title to the property. The sale deed refers to undivided 1/3 in extent of 1 acre, without reference to the specific boundary. Further, in the affidavit filed in support of the Writ Petition or in the representation, the petitioner has not pleaded any partition pursuant to the sale deed under which he purchased the property. Interestingly, the petitioner claimed title over the full extent of property contrary to his title deed. When the property remains undivided, it is not within the domain or jurisdiction of the revenue officials or Survey officials to conduct survey and decide as to which portion



of the property, the joint owner is entitled to hold or in enjoyment of the property. RSO 31 (13) (iii) reads as under :

"13.Change of names in joint-pattas.-

.....

(iii) Sub-division and separate registry of joint holdings.-Sub-division and separate registry of a joint holding may be effected at the instance of any one of the joint holders of a ryotwari holding or the persons to whom the whole or part of his share has been transferred, provided the shares are marked on the ground by well-defined boundaries. The consent of the other joint holders is not necessary."

3.Without considering sale deed under which the petitioner purchased the property, the learned Single Judge of this Court has directed the second respondent to consider the representation of the petitioner and to pass orders on merits and in accordance with law after issuing notice to the petitioner as well as neighbouring land owners. Since the petitioner has filed only a sale deed showing that he has acquired only an undivided 1/3 share in the property, it is not for the revenue officials to divide the property on ground. Hence, this Court is able to see that the respondents cannot effect sub division on the basis of the document of sale produced by the petitioner. It is also represented that the petitioner has filed a suit in O.S.No.154 of 2017 on the file of the District Munsif Court, Oddanchatram. Hence, this Court cannot entertain a petition when the order of this Court cannot be complied with as it is expected. Though the respondents could have passed an order, the failure to pass an order may not be viewed as a deliberate act of contempt in all cases especially when this Court is not expected to direct something which is impossible to be carried out. Hence, this Contempt Petition is closed. However, liberty is given to the petitioner to prosecute the suit already filed by him in accordance with law if necessary by amending the plaint suitably. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



To

1. The District Surveyor,
O/o. the District Surveyor,
District Collector Campus,
Dindigul District.

2. The Tahsildhar,
Oddanchatram,
Dindigul District.

+1 CC to SPECIAL GOVERNMENT PLEADER (SR-10569[F] dated 09/03/2020)

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-10734[F] dated
10/03/2020)

ORDER IN
Cont.P. (MD) No.971 of 2018
06.03.2020

SRM

AE (12.05.2020) 4P 5C