

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2021

CORAM: JUSTICE N.SESHASAYEE

W.P.No.2302 of 2021 and
W.P.No.2306 of 2021

1.A.M.Mohan ... Petitioner in W.P.No.2302 of 2021
2.Anilkumar S.Mehta ... Petitioner in W.P.No.2306 of 2021

Vs.

1. The Tahsildar
Ponneri Taluk
Tiruvallur District.

2. The Taluk Surveyor
Ponneri Taluk
Tiruvallur District.

3. The Village Administrative Officer
Attathangal Village
Ponneri Taluk, Tiruvallur District.

4. The Secretary to Government
Revenue Department
Secretariat, Fort St.George
Chennai - 600 009.

... Respondents in both Wps

[R4 - suo motu impleaded vide order dated 05.02.2021 in
W.P. Nos.2302 & 2306 of 2021]

Prayer in WP.No.2302 of 2021: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the 1st and 2nd respondents herein to survey the land in Survey No.88/1B1B (Part) and Survey No.88/1B1A1A1A1 in Patta No.465 in 112, Attanthagal Village, Ponneri Taluk, Tiruvallur District, and consequently to sub divide the land in above survey numbers and issue patta in the name of the petitioner, by following the due process in law.

Prayer in WP.No.2306 of 2021: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the 1st and 2nd respondents herein to survey and lay down the boundaries of land in Survey No.88/5A1 in Patta No.4522 AT 112, Attanthangal Village, Ponneri Taluk, Tiruvallur District, following the due process in law.

For Petitioners : Mr.S.Sathiaseelan
For Respondents : Mr.K.Kumaresh Babu
Additional Advocate General
Assisted by Mr.G.Rajesh
Government Advocate in WP.2302/2021
Asst. by Mr.E.Balamurugan
Special Govt.Pleader in WP.2306/2021

COMMON ORDER

The petitioners have moved the second respondent with a prayer for survey and sub dividing their properties vide separate representations dated 04.11.2020, and that necessary charges were paid by them for the said purpose. Since the respondents did not act on their representation, the petitioners are before this Court.

2. Heard Mr.K.Kumaresh Babu, learned Additional Advocate General, assisted by Mr.G.Rajesh, learned Government Advocate (for the respondents 1 to 3 in W.P. No.2302 of 2021) and Mr.E.Balamurugan, learned Special Government Pleader (for the respondents 1 to 3 in W.P.No.2306 of 2021).

3. On 05.02.2021, when the matter was taken up for hearing, the learned Government Advocate made a statement on written instructions that notices have already been served on the parties for an enquiry which is scheduled to take place on 06.02.2021 at 11.00a.m., to which, the learned counsel for the petitioners also confirmed the same. The case was adjourned to 22.02.2021, and on that date, the learned Additional Advocate General has made available a communication addressed to him by the Tahsildar, Ponneri, dated 04.02.2021. It delineates the various steps taken towards computerization of revenue records and related matters.

4. The learned counsel for the revision petitioner has brought to the notice of the Court, the order of this Court in W.P(MD) No.13465 of 2020 dated 05.10.2010, in which certain guidelines were framed by a learned Judge of this Court which were to be followed by the revenue officials while surveying the properties, and according to the petitioners, this was also brought to the notice of the revenue officials, which they deliberately omitted to follow. The relevant paragraph of the order dated 05.10.2010 reads as under :

"7. At this juncture, this Court thinks it fit to draw certain guidelines to be followed, in respect of survey of the properties in future by the

authorities concerned, which are as under:

- i. On receipt of charges towards Survey or Resurvey, it should be conducted within a period of 30 days from the date of such receipt and in case of failure on the part of the authorities to do so, the cost of application shall be returned to the parties, apart from recovery of a sum of Rs.2,500/- from the salary of the concerned Officials, responsible for execution of the job and also initiation of departmental proceedings against them and those errand officers must be identified and placed under suspension and even dismissed from service for their misconduct, dereliction of duty, showing no devotion to work, lack of integrity, so as to deprive their entire gratuity and terminal benefits under the head "moral turpitude", thereby failing to maintain absolute integrity in discharging his/her official duties. The details of such Officers stated supra together with his / her Aadhar Number shall be incorporated and adverse remarks shall be entered in the Service Register of the concerned Officers, so as to deprive their further promotions in their career. In case of failure to do survey, the concerned Official / Surveyor shall be displaced to a non-sensitive post;
- ii. A Register shall be maintained, in which details, such as name of the person, who has gone for survey, area of survey, date of survey, completion of survey, reason for not surveying the property, etc., should be entered periodically and verified by the Superior Officer. The complete details shall be available to the parties concerned or any person, when required under the Right to Information Act and Section 8 of the said Act or any other provision shall not be quoted to deprive the details to the person, who requires it;
- iii. The Respondents 1 to 4 shall make use of Drone Technology in order to conduct accurate survey of the property, which will throw light with regard to encroachment on Government lands, like OSR, Public Roads, Parks, Lakes, Odai, etc.
- iv. Pendency of litigation before Courts is not a bar for the authorities to conduct survey or

resurvey in the absence of any stay / interim order / interim injunction from proceeding further;

- v. In cases relating to pending civil dispute, the parties are at liberty to approach the appropriate forum for conducting Survey or Resurvey of the property in question by making necessary application and the same shall be considered by the appropriate forum in accordance with law;
- vi. The entire process of survey or resurvey shall be photographed and videographed by the authorities concerned even in the absence of suitable orders to that effect and the copies of documents shall be furnished to the parties concerned on receipt of necessary charges;
- vii. In the event of any public documents sought for by any of the parties in connection with the property in question, under the Right to Information Act, duly certified copies should be provided to such parties and it should not be denied by merely quoting some provisions of the RTI Act, more particularly, Section 8 of the said Act, unless there is any interim order operating against the parties concerned in respect of disbursement of the documents sought for by the parties. The name, designation, employment number, if any Aadhar Card details, shall be furnished in the certification;
- viii. It is needless to mention that obviously, the entire charges for survey or resurvey of the property shall be paid by the parties concerned or it should be equally borne them, depending upon the facts of each case. In case of delay on the side of the Authorities, the costs should be borne by them from their personal funds;
- ix. A constant vigil at the Officials of every Revenue Departments is absolutely necessary to regulate the revenue related works and the Vigilance Department shall be brought into action to curb the demand of bribe by them, especially Surveyors;
- x. In case of request for issuance of Patta after survey, apart from the aforesaid guidelines, the directions issued by this Court in W.P.(MD) No.7746 of 2020 batch on 23.09.2020 shall have to be adhered to;
- xi. The Government is directed to issue a circular in this regard, incorporating the above

guidelines within a period of one month from the date of receipt of a copy of this order."

5. This Court understands that these guidelines largely intend to streamline the process of considering the representations made before the authorities. And, at this juncture, it is appropriate to reiterate the suggestions given by this Court in its order dated 25.01.2021 in W.P.No.1297 of 2021, which reads as under :

"9.1 In this regard, this Court has couple of suggestions to share with the 3rd respondent, the various kinds of representations that normally are preferred with the authorities, that can be broadly categorised into :

- a) Non-Statutory representations.
- b) Statutory representations.

9.2. In the case of statutory representations, there will be a right in the petitioner and there will be corresponding duty to perform certain function that vests with the authorities. This category itself can be divided into two:

- a) Where the authority functions with regard to those property issues between the Citizens and the Government, such as mining, removal of encroachments etc.,
- b) The cases between two individuals where interest of the Government is not involved as relating to matter such as issuance of patta etc.,

9.3 In all these, if the entire representations are automated (computerised) and they are taken in a certain seniority then everybody associated there with, or to state it differently, the stake holders of this representation and the officials who ought to perform their duty in connection with, will have a greater clarity. This Court may further require the 3rd respondent to consider:

- a) Why not the entire pattern of considering various categories of representations by the concerned authorities be computerised?
- b) Why not all the representations are taken up in a certain seriatim, especially those categories fall under the category 9(b) above?
- c) If any such process is contemplated to consider, why not special priority be accorded to senior citizens, destitute women and any people who may deserve in law a certain special preference.

In all such circumstances, it is important to inform the petitioner involved or the parties to know which representation is being considered at any point of

time in order, more like a cause title moves before this Court."

6. This Court holds that these directions/suggestions are made essentially to streamline the process and to make the working convenient both for the Revenue Officials and for the citizens. If it is streamlined, it has got a great possibility of avoiding unnecessary litigations that clog the judicial system.

7. This Court accordingly directs the respondents 1 and 2 to consider the representations of the petitioners dated 04.11.2020, in consistent with the directions of the Court herein above delineated. The writ petitions are disposed of accordingly. No costs.

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

ds

To:

1. The Tahsildar
Ponneri Taluk
Tiruvallur District.
2. The Taluk Surveyor
Ponneri Taluk
Tiruvallur District.
3. The Village Administrative Officer
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+1cc to Government Pleader SR. Nos. 6658, 6684

W.P.No.2302 of 2021 and
W.P.No.2306 of 2021

GJ (CO)
PR (19/07/2022)