

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM

W.P. No. 12575 of 2021

M.Kopamma

...Petitioner

-vs-

1. The Tahsildar,
Denkaikottai Taluk,
Krishnagiri District.

2. The Surveyor,
Taluk Office,
Denkanikottai Taluk,
Krishnagiri District.

...Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the Respondents to measure and demarcate the Petitioner's land in to measure and demarcate the survey Nos. 165/1 and 177/1 as Survey Nos. 165/10, 165/11, 165/12 as per Patta Nos. 51 and 52 measuring 10 cents as per the orders dated 08.09.1951 at Kunthumaranappalli Village, Denkanikottai Taluk, Krishnagiri District based on the Application and Bank Challan dated 07.03.2018.

For Petitioner : Mr. T.Elumalai

For Respondents : Dr. S.Suriya
Government Advocate

ORDER

The relief sought for in the Writ on hand is to direct the respondents to measure and demarcate the petitioner's land in Survey Nos. 165/1 and 177/1 as Survey Nos. 165/10, 165/11, 165/12 as per Patta Nos. 51 and 52, measuring 10 cents as per the orders dated 08.09.1951 at Kunthumaranappalli Village, Denkanikottai Taluk, Krishnagiri District based on the Application and Bank Challan dated 07.03.2018.

2.The petitioner states that he filed an application along with bank challan to the respondents for measuring and demarcating the land and the application submitted is kept pending and no action has been taken and thus, the petitioner is constrained to move the present writ petition.

3.Measuring of a private land cannot be done by filing a writ petition under Article 226 of the Constitution of India. In the event of considering such application, directing the Tahsildar or Surveyor to measure the land, there is a likelihood of prejudice to the other persons in the event of any civil dispute. Mostly, such petitions are filed to measure the land in order to avoid civil disputes and therefore, the High Court is expected to be cautious in such matters where the parties are approaching by way of writ petition to measure their land through the Government Surveyors. Whether there is civil dispute exists or not is to be ascertained, in the event of such dispute regarding measurement or demarcation of land, the parties must approach the competent civil court of law to resolve the dispute. Contrarily, they cannot simply file an application to the Tahsildar and file a writ petition seeking directing to measure and demarcate the land. Such a relief would cause prejudice to the interest of some third parties, who may have some interest over the property.

4.High Court cannot conduct an enquiry regarding the title and ownership of the immovable properties. Measuring and demarcating a private land would arise only if there is a dispute between the parties regarding title or ownership. In such circumstances, the parties are at liberty to approach the competent civil court to resolve the disputes. By getting an order from the High Court in a writ petition for measuring a property, the parties may take undue advantage affecting the civil rights of other third parties. Thus, in such circumstances, the parties if want to measure and demarcate their land, then they must approach the competent civil court by impleading the parties who all are raising objections or causing disturbances to the rights of the persons seeking such remedy. The very fact that the petitioner approached this Court in this writ petition seeking a relief to measure and demarcate his land is sufficient to draw a factual inference that there is a dispute exists between the parties. Thus, the relief as such cannot be granted and the petitioner has to approach the competent civil court for appropriate relief.

5.The practice of filing writ petitions seeking direction to measure and demarcate the private land can never be encouraged by High Court, as in the event of granting any such relief, the same would affect the rights of some third parties, who all are

not impleaded, nor their rights are adjudicated with reference to the documents and evidences. Such an adjudication cannot be entertained in a writ petition under Article 226 of the Constitution of India. Thus, the relief as such sought for in the present writ petition deserves no merit consideration and the petitioner is at liberty to approach the competent civil court for redressal of his grievances in the manner known to law.

6. With the above observations, this writ petition stands dismissed. No costs.

s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

abr/maya
To

1. The Tahsildar,
Denkaikottai Taluk,
Krishnagiri District.
2. The Surveyor,
Taluk Office,
Denkanikottai Taluk,
Krishnagiri District.

+1 CC to The Government Pleader sr 27721.
+1 CC to Mr.T. Elumalai, Advocate sr 27672

सत्यमेव जयते

W.P. No. 12575 of 2021

PPA (CO)
SP(12/07/2021)

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