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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.06.2021

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P. No. 12524 of 2021

S.Sarathkumar

..Petitioner

Vs.

1. The Tahsildar,  
Ayanavaram Taluk,  
Ayanavaram,  
Chennai-600 102.

2. Land Surveyor-I,  
Ayanavaram Taluk,  
Ayanavaram,  
Chennai-600 023.

3. G.Masilamani,

4. S.Nagammal  
W/o.K.Subramani

5. S.Dhanalakshmi  
D/o.K.Subramani

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the 1<sup>st</sup> and 2<sup>nd</sup> respondents to consider the representation dated 31.01.2020 and pass orders on the enquiry conducted on 17.03.2020 and mark the boundaries and fix the boundary stones for my property viz., all the piece and parcel of the property bearing New No.22, Old No.14/2, Duraisamy Street, Ayanavaram, Chennai-600 023 comprised in Town Survey No.126/4 of Ayanavaram village, Chennai District.

For Petitioner : Mr.D.Bennington

For Respondents : Mr.S.John J.Raja Singh  
Government Advocate for R1 & R2



## O R D E R

The Case has been heard through video conferencing

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The relief sought for in this writ petition on hand is directed to first and second respondents to consider the representation submitted by the writ petitioner on 31.01.2020 and pass orders by conducting an enquiry on 17.03.2020 and for the property belongs to the petitioner which as per new No.22, Old No.14/2, Duraisamy Street, Ayanavaram, Chennai-600 023 comprised in Town Survey No.126/4 of Ayanavaram village, Chennai District.

2. The relief as such sought for in the writ petition is absurd. An attempt made to convert the civil dispute by way of a writ petition can never be encouraged by the High Court. Even to get the relief of disposal of representation by the competent authority, the petitioner has to establish his right. In respect of immovable properties, if any right regarding title or ownership is to be established, then the parties have to approach the competent Civil Court of law. High Court cannot settle the disputed issues between the parties by examining documents and evidences under Article 226 of the Constitution of India.

3. Mere submission of representation to the public authority cannot constitute a cause for the writ petitioner to move a writ petition in order to resolve a civil dispute, which is otherwise to be resolved by approaching the competent Civil Court.

4. The writ petitioner has raised certain allegations against the 3<sup>rd</sup> respondent and he lodged a police complaint also. Survey of boundaries in respect of immovable property is a civil dispute and in this regard, the petitioner has to approach the competent Civil Court by impleading all necessary parties and mere representation cannot be a solution for resolving such civil disputes. High Court cannot issue a direction to dispose of the representation in a routine manner. Even for issuing certain directions certain principles are to be followed. This Court has elaborately considered the issue and delivered a judgment on 08.07.2019 in W.P.(MD) No.12782 of 2015 and the following requirements are considered for issuing a writ of mandamus to direct the authorities to consider the representation and the relevant para is extracted hereunder:

"13. Thus, for entertaining a writ of mandamus to consider the appeal / representation, the following requirements are to be adhered to:



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(i) The person filing a writ petition should have approached the authority concerned by preferring appeal / representation setting out all the facts and details along with the cause of action arose for filing such appeal / representation.

(ii) Such an appeal / representation must be duly acknowledged by the authority concerned.

(iii) The person, who files a writ petition, should establish that he has established the legal rights for the purpose of redressing his grievances before the competent authority. In other words, it is a precondition that the person, who files a writ petition, should establish the legal rights for the purpose of approaching the competent authority as well as the High Court under Article 226 of the Constitution of India.

(iv) Such an appeal / representation must have been preferred within the time limit prescribed in the Service Rules or at least within a reasonable period.

(v) The normal period of limitation prescribed in the Service Rules of various Departments of the State and Union is that 60 days or 90 days from the date of arising of cause of action. If there is no order affecting the rights of a person, then such an appeal / representation must be filed at least within a period of six months from the date of arising of cause of action. Thus, any appeal or representation must be submitted to the competent authority within a period of six months from the date of arising of cause of action.

(vi) On receipt of such an appeal / representation from the aggrieved person, the competent authority is bound to consider the same and pass orders within a period of six months from the date of receipt of the representation/ appeal.

(vii) In the event of not passing any orders within a period of six months, then alone, a writ of mandamus should be entertained for the purpose of issuing a direction to the authority concerned to consider the representation / appeal and pass orders.

(viii) Even such procedures are contemplated in certain Special Acts, namely, Administrative Tribunal Act etc., and several other Acts prescribe time limit for the purpose of preferring appeal and even the Service Rules of various Departments of the State or



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Union also prescribe time limit for preferring appeal / representation. All such appeals / representations are to be filed within a time limit prescribed and in the event of filing any such appeal / representation beyond the period of limitation, then, such an appeal / representation shall be entertained by the competent authority only on filing a petition by the aggrieved person to condone the delay and the delay condonation petition is to be decided by the competent authority by considering the reasons adduced and by taking a decision on merits and in accordance with law."

5. In view of the facts and circumstances, the petitioner is at liberty to approach the competent forum for the purpose of redressal of his grievances. By submitting a mere representation, the civil dispute between the parties cannot be resolved in a writ petition under Article 226 of Constitution of India. Thus, the writ petition is devoid of merits and stands dismissed. No costs.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

rpl/vri/kak

To

1. The Tahsildar,  
Ayanavaram Taluk,  
Ayanavaram,  
Chennai-600 102.

2. Land Surveyor-I,  
Ayanavaram Taluk,  
Ayanavaram,  
Chennai-600 023.

+1CC to Government Pleader, Sr.No.27650

W.P. No.12524 of 2021

SKY (CO)  
K.RK.(19.07.2021)