



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2021

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.NO.16838/2021

[Video Conferencing]

M.Karunanidhi

... Petitioner

Versus

1. The Tahsildar,
O/o.The Tahsildar,
Villupuram taluk,
Villupuram.

2. The Chief Surveyor,
O/o.The Tahsildar,
Villupuram Taluk,
Villupuram.

3. Thiru M.Kaliyaperumal

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India praying for a writ of mandamus directing the respondents 1 and 2 to survey and sub divide the common property in survey No.483/2E in which the petitioner son K.Karthik, his 2nd elder brother late Thiru.M.Parthasarathy's two sons P.Santhana Bharathy and P.Prabhakaran jointly and the 3rd respondent have 1/3rd share each and issue a separate survey number for each of them and to issue a joint patta in favour of them by marking boundaries within a specified time frame as may be fixed by this Court.

For Petitioner : Mr.V.Ajoy Khose

For RR 1 & 2 : Mr.Yogesh Kannadasan
Government Advocate



ORDER

1. Mr. Yogesh Kannadasan, learned Government Advocate accepts notice on behalf of the respondents 1 and 2.

2. The present writ petition is the off-shoot of the decree obtained by the petitioner herein in OS.No.275/2000 dated 10.10.2002 passed by the learned Additional District Munsif, Villupuram. The said suit has been filed seeking partition and separate possession. The writ petitioner is the 2nd defendant in the said suit. It had been recognized that the 'B' Schedule property which had been annexed to the decree is to be used in common. The said 'B' Schedule consisted of a well and land in and around the well. It is complained that one of the brothers, particularly, the 3rd respondent herein who was the plaintiff in the said suit, is preventing the petitioner herein from using the common well. This necessitated the petitioner to give an application before the Tahsildar, for issuance of a joint patta in accordance with the decree which recognized the right of the petitioner to use the well. This also required measurement of the area prior to grant of patta. This further required assistance of a Surveyor to actually carry out the measurement.

3. In this connection, my attention was drawn by the learned counsel for the petitioner to a Letter addressed by the Tahsildar, to the Surveyor which is dated 29.10.2020 in Na.Ka.No.A6/6929/2020, requesting the Surveyor to make a field visit and make a measurements and do the needful.

4. The grievance expressed by the learned counsel for the petitioner is that in spite of such direction, the Surveyor appears to be protracting and not discharging public duty which he had been directed to do and which he is expected to discharge.

5. The writ petition is filed seeking a mandamus to execute and to act on the representation given by the petitioner herein.

6. A mandamus is issued to the 1st respondent/Tahsildar, primarily to examine whether the petitioner is entitled for joint patta and in this connection, a further direction is given to the 2nd respondent/the Chief Surveyor in the office of the Tahsildar, Villupuram Taluk, to measure the said property which had been mentioned as 'B' Schedule in OS.No.275/2000 on the file of the Court of Additional District Munsif, Villupuram. Thereafter, the 1st respondent/Tahsildar may examine the question of grant of joint patta before conducting such survey. It would only be appropriate that the 3rd respondent is also put on notice. Since that direction is given, notice to the 3rd respondent in the present writ petition, is dispensed with.



It is made clear that while issuing notice, the legal representatives of the 1st defendant in OS.No.275/2000, may also be informed about carrying out of the survey and enquiry with respect to grant of joint patta. The entire exercise is to be completed by respondents 1 and 2 within a period of twenty weeks from the date of receipt of a copy of this order.

7. The writ petition stands disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

AP

To

1. The Tahsildar
O/o.The Tahsildar,
Villupuram taluk
Villupuram.
2. The Chief Surveyor
O/o.The Tahsildar
Villupuram Taluk,
Villupuram.

+1cc to Mr.V.Ajoy Khose, Advocate, S.R.No.40203
+1cc to the Government Pleader, S.R.No.40728

W.P.No.16838/2021

NR(CO)
PBS/27/08/2021