



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2021

CORAM:

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

W.P. No.17909 of 2019

M. Sathishkumar

... Petitioner

-Vs-

The Tahsildar,
Office of Tahsildar,
Dharapuram Taluk,
Tiruppur District.

... Respondent

PRAYER: This Petition is filed under Article 226 of the Constitution of India, praying for the issue a Writ of Mandamus, directing the respondent to measure the petitioner's property measuring about 0.74 acres in S.F. No.223/6 in Mulanur Village of Dharapuram Taluk in Tiruppur District and fix the boundaries by considering the petitioner's representation dated 05.07.2018 and pass orders accordingly.

For Petitioner : Mr.Ponraj .N.

For Respondent : Mr.K.M.D. Muhilan
(Government Advocate)

O R D E R

The relief sought for in this writ petition is for a direction to the respondent to measure the petitioner's property measuring about 0.74 acres in S.F. No.223/6 in Mulanur Village of Dharapuram Taluk in Tiruppur District and fix the boundaries by considering the petitioner's representation dated 05.07.2018 and pass orders accordingly.

2.The learned counsel for the petitioner would submit that the petitioner is doing agricultural activities in his land measuring about 0.74 acres in S.F. No.223/6, in Mulanur Village



of Dharapuram Taluk for eking out his livelihood. The aforesaid property was allotted to his father named Muthusamy Gounder through Partition Deed in Document No.605 of 1986 dated 06.02.2007. Thereafter, as per Partition suit Judgment in O.S. No.207 of 2006 dated 06.02.2007, the aforesaid property was allotted to the petitioner and his father. After the death of his father, the petitioner is in possession and enjoyment of the property. The aforesaid property in S.F. No.223/6 in Mulanur Village was not measured for a very long time and hence, the petitioner has approached the respondent to measure the aforesaid property and fix the boundaries as per the documents having with the petitioner herein even though the petitioner has paid adequate fees as requested by the Revenue Department, in order to measure the property, no action was taken on the representation of the petitioner on the side of the respondent.

3. It has been further submitted that despite the orders of this Court dated 26.06.2019 and 30.07.2019, the respondent is not able to take any action on the representation dated 05.07.2018 made by the petitioner herein and hence, the petitioner having left with no other alternative remedy has approached this Hon'ble High Court by invoking Article 226 of the Constitution of India, for issuance of Writ of Mandamus directing the respondent to measure the aforesaid property and fix boundaries accordingly.

4. The learned Government Advocate would submit that the counter affidavit has already been filed on behalf of the respondent stating that the petitioner has applied for the subdivision and mutation of records in his name for the survey No.223/6, measuring 0.74 acres of Mulanur Village of Dharapuram Taluk, only on 23.08.2018 through on-line process at e-governance centre. On receipt of the aforesaid on-line application of the petitioner, the Mulanur Firka Surveyor inspected the above field and conducted enquiry. At the time of the said enquiry, the adjoining land owner namely, Mr. Kalichamy, S/o. Sellappa objected to measure the above land stating that there is a dispute between this petitioner since the petitioner has encroached the common pathway, Pipeline, canal and water tub which belongs to both of them and removed the pipelines and enjoying excess extent of pathway which belongs to the him. Due to the above dispute between the petitioner and nearby land owner the said Mr. Kalichamy, the Mulanur Firka Surveyor could not able to measure the property and the same was also informed to the petitioner by letter dated 08.11.2018 in reference No.2018/0105/32/023099.



5. It has been further submitted in the counter affidavit that as there is no willful disobedience on the part of the respondent, since the orders dated 26.06.2019 and 30.07.2019 passed by this Court has not been received and the same was informed only on 30.07.2019 by the Government Advocate and hence, counter statement has not been filed in time for this Writ petition. However, the respondent could measure the property after serving notice to both parties ie. the petitioner and the objected party who is nearby land owner with the help of the police protection.

6. Heard, the learned counsel for the petitioner and the learned Government Advocate for the respondent as well as perused the material available on record.

7. It is seen from the records that the respondent has taken action on the representation dated 05.07.2018 filed by the petitioner. However, there is dispute between the petitioner and the adjoining land owner with regard to usage of the common pathway and hence, adjoining land owner has objected to the respondent for measuring the said property. Hence, this Court directs the respondent to serve notice to the petitioner and the other party who is objecting for measuring the property of the petitioner duly informing the date for measuring the property asking them to be present on that day and in their presence, the respondent shall measure the property having relevant documents of the property. If there any dispute arises on that day, the respondent shall approach the Police to give protection to carry out their survey work without any trouble.

8. With the aforesaid direction, the Writ petition is disposed of. Consequently, connected miscellaneous petition is closed if any. There shall be no order as to costs.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

Lbm



To:

The Tahsildar,
Office of Tahsildar,
Dharapuram Taluk,
Tiruppur District.

+1cc to Mr.N.Ponraj, Advocate, S.R.No.42929

+1cc to the Government Pleader, S.R.No.43661

W.P. No.17909 of 2019

GPL(CO)
SU(24/09/2021)