



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2021

CORAM:

THE HON'BLE MRS. JUSTICE V. BHAVANI SUBBAROYAN

W.P.No.20019 of 2021

V.Mani

...Petitioners

Vs.

1. The District Collector,
Tiruvannamalai District
Tiruvannamalai-600 601.
2. The Tashildar,
Tiruvannamalai District
Tiruvannamalai-600 601.
3. The Head Surveyor,
Tiruvannamalai District
Tiruvannamalai-600 601.
4. The Village Administrative Officer,
Melathikan Village,
Tiruvannamalai District
Tiruvannamalai-600 601.

5. Pichai Sthabathi @ Pichandi.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents 2 to 4 to measure the property of the petitioner bearing Patta No.182, comprised in S.No.50/6 (as per Sub-division), of an extent of 798 Sq.ft. in Mleathikan Village, Thiruvannamalai Taluk, Thiruvannamalai, by laying boundary stone in pursuant to the application dated 29.01.2021.

For Petitioner : Mr.K.Venkateswaran

For Respondents : Mr.V.Veluchamy
Government Advocate



ORDER

This writ petition has been filed for issuance of Writ of Mandamus, direction to the respondents 2 to 4 to measure the property of the petitioner bearing Patta No.182, comprised in S.No.50/6 (as per Sub-division), of an extent of 798 Sq.ft. in Melathikan Village, Thiruvannamalai Taluk, Thiruvannamalai District, by laying boundary stone in pursuant to the application dated 29.01.2021.

2. The case of the petitioner is that the wife of the petitioner namely Annapoorani had purchased a property being all that piece and parcel of vacant land comprised in S.No.50/2 measuring to an extent of 10 cents equal to 4360 Sq.ft., out of larger extent of land being Acre 10.92 cents of land in Melathikan Village, Thiruvannamalai Taluk, by laying boundary on south by 0.12 cents of land given to Panchayat for laying Road, north by Amirthammal land, east by Pitchai @ Pitchandi Property and west by property sold by Mr.P. Rajendran by way of a registered Sale Deed in Document No.576 of 1999, dated 29.04.1999 on the file of Joint Sub Registrar Office - I, Thiruvannamalai, and she was in absolute possession and enjoyment of the property from the date of purchasing of the property. Later, the petitioner had sought for sub-division of the aforesaid property and the same was ordered by Tahsildar, Thiruvannamalai District vide proceedings No.1421/1999-2000 dated 28.11.2000, after sub-division of Survey No.50/2M1B as S.No.50/6 of an extent of 0.04.0 Hectares and Patta No.182 was issued in favour of the petitioner's wife. However, the Special Tahsildar, National Highways Expansion, Revenue Divisional Office Building, Thiruvannamalai District issued a notice dated 12.07.2011 for fixation of compensation in respect of land sought to be acquired being 250 Sq.m. + 81 Sq.mtr equivalent to 3562 sq.ft., of land out of 10 cents of land equivalent to 4360 sqft., and the remaining land after acquisition being to an extent of 798 Sq.ft. Aggrieved against the compensation award, the petitioner preferred an appeal to the District Collector, Thiruvannamalai, for enhancement of compensation in Appeal No.62 of 2012 and the same is pending. Thereafter, the petitioner's wife died intestate on 03.03.2018 leaving behind her legal heirs namely (i) Mani (husband), (ii) M.Palani, (iii) M.Saravanan had predeceased his mother on 25.12.2016 leaving behind a) Mrs.Lakshmi (Wife), b) S.Balamurugan (son), c) S.Revathi (Daughter), 4.M.Sankar, 5.M.Punniyamurthi and 6.M.Nagarajan. Subsequently, he made a request to the Office of the Tahsildar, Thiruvannamalai District to survey his land and has also paid necessary charges, accordingly, the surveyor inspected the property and bounded the petitioner's remaining property after acquisition. In the meanwhile, the 5th respondent herein had



come forward with a claim that his mother had executed a Will in respect of her properties in favour of the objector, his brother and three sisters by way of a registered WILL in Document No.12 of 1988 dated 30.03.1988 on the file of Joint Sub Registrar Office-I, Thiruvannamalai District, 'A' schedule property was allotted to Pichai @ Pichandi being a 16 cents of land and a house in Melathikan Village, Thiruvannamalai Taluk and District and schedule 'B' schedule property was allotted to Rajendran being a 10 cents of land and a house situated at Melathikan Village, Thiruvannamalai Taluk and sisters namely 1.Kuppu, 2.Lakshmi and 3.Rajakumari were allotted to 10 cents of land each in Melathikan Village. Furthermore, the 5th respondent had come forward with a false claim that still the Patta stands in his name on the other hand after purchasing of the land from the vendors by his wife late.Annapoorani from Kuppamal, the elder sister of the 5th respondent, there was a sub-division of Survey number and the patta was issued in her name vide Patta No.182. The petitioner further submits that the four boundaries of the land purchased by his wife would clearly reveal that the intention of the 5th respondent to grab the same being the diminutive extent of 798 sqft., left out after acquisition and compensation has been paid to the petitioner as the owner of the said land and also an appeal has been preferred for enhancement of compensation. However, the 5th respondent had wantonly and deliberately made a frivolous claim and thereby objected for issuance of service connection to his land and also removed the boundary stones as fixed by the Revenue Authorities in order to reject the petitioner's rightful claim. He got right over the property after purchasing of the land in the year 1999 and he wants to put up a construction in the said land and a bore well in the said property for construction and applied for service connection as per the said document there is remaining 798 Sq.ft. of land out of 4360 Sqft., Subsequently, the 5th respondent had filed a suit in O.S.No.32 of 2021 against the petitioner and others on the file of Additional Subordinate Court, Thiruvannamalai District and the same is pending and the remaining 798 Sq.ft. after acquisition of land for Expansion of National Highway, seeks to measure the property and lay the boundary stone on 29.01.2001 and he had paid necessary fees on 01.02.2021. Hence, the 3rd respondent has not come forward to measure the property for laying the boundary stone with regard to the representation of the petitioner dated 29.01.2021. He has no other alternative remedy except to approach this Court under Article 226 of the Constitution of India. Hence, this petition.

3. The learned counsel appearing for the petitioner submitted that the petitioner will be satisfied if a direction is issued to the respondents 2 to 4 to consider the petitioner's



representation dated 29.01.2021 and dispose of the same within a stipulated time that may be framed by this Court.

4. Having regard to the limited scope of the prayer that is now sought for in this writ petition before this Court and taking into account the submissions made on either side, without expressing any opinion on the merits of the petitioner's representation or the case pleaded by the petitioner in the present writ petition, the Writ Petition is disposed of, with a direction to the respondents 2 to 4 to consider the petitioner's representation dated 29.01.2021 and pass appropriate orders, on merits and in accordance with law, after affording an opportunity to the necessary parties within a period of sixteen weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar (L.A)

//True Copy//

Sub Assistant Registrar

gba

To

1. The District Collector,
Tiruvannamalai District
Tiruvannamalai-600 601.
2. The Tashildar,
Tiruvannamalai District
Tiruvannamalai-600 601.
3. The Head Surveyor,
Tiruvannamalai District
Tiruvannamalai-600 601.
4. The Village Administrative Officer,
Melathikan Village,
Tiruvannamalai District
Tiruvannamalai-600 601.

+1CC to Mr.K.Venkateswaran, Advocate, Sr.No.48105

+1CC to Mr.Government Pleader, Sr.No.49058

W.P.No.20019 of 2021

NR (CO)

K.RK. (02.11.2021)