



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2021

CORAM:

THE HON'BLE MRS. JUSTICE V. BHAVANI SUBBAROYAN

W.P.No.18299 of 2020

Rajkumar Malpani

...Petitioner

Versus

1.The Tahsildar
Coimbatore North Taluk Office,
Dr.Balasundaram Road,
Nearby Women's Polytechnic College,
Gopalapuram, Coimbatore-641 108.

2.The Assistant Commissioner
Coimbatore Corporation,
North Zone, Coimbatore-641 012.

3.S. Magesh,

4.Baby Alais S. Sundarambal

...Respondents

(R3, R4 impleaded vide order dated 16/07/2021 made in
W.M.P.No.3449/2021 in W.P.No.18299/2020)

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents to measure and mark the metes and bounds of the petitioner's property by installing the survey stones in Survey Nos.166/3B, 166/3A to an extent of 2619 sq.ft; Survey No.166/3A, 3B measuring an extent of 1784.89 sq.ft.; and Survey No.165/3B & 166/3B measuring an extent of 4356 sq.ft., totalling 8759 sq.ft. or 20 cents in Ganapathy Village, Coimbatore North Taluk, Coimbatore District, within the time limit.

For Petitioner : Mr.R.Baskaradoss.

For RR 1 and 2 : Mr.Yogesh Kannadasan,
Government Advocate.

For RR 3 and 4 : No Appearance



ORDER

This writ petition has been filed seeking a direction to the respondents to measure and mark the metes and bounds of the petitioner's property by installing the survey stones comprised in S.Nos.166/3B, 166/3A measuring an extent of 2619 sq.ft; S.No.166/3A and 166/3B measuring an extent of 1784.89 sq.ft.; and S.No.165/3B and 166/3B measuring an extent of 4356 sq.ft., a totaling extent of 8759 sq.ft. or 20 cents in Ganapathy Village, Coimbatore North Taluk, Coimbatore District, within the time limit fixed by this Court.

2. The case of the petitioner is that the petitioner had purchased the properties comprised in S.Nos.166/3A and 166/3B measuring an extent of 6 cents by way of registered a sale deed vide Doc.No.134/2009, dated 19.01.2009; comprised in S.Nos.166/3A and 166/3B measuring an extent of 4 cents by way of registered a sale deed vide Doc.No.400/2009, dated 03.02.2009 and comprised in S.Nos.165/3B and 166/3B measuring an extent of 10 cents by way of registered a sale deed vide Doc.No.2670/2009, dated 22.06.2009 measuring the total extent of 8759.89 sqft or 20 cents at Gamapathy Village, Coimbatore North Taluk, Coimbatore District. Subsequently, Joint Patta Nos.149 and 206 in respect of the Survey Nos.165/3B, 166/3B and Ward No.21, Block No.26 and Town Survey No.8 measuring an extent of 4356 sqft at Ganapathy Village, Coimbatore North Taluk Office in R.T.R.No.16728/2015/A1, dated 15.07.2015 have also been issued by the authorities concerned in favour of the petitioner and others. Thereafter, the petitioner has proposed to construct a house in the said land. Hence, the petitioner made several representations to the respondents herein to survey and measure the metes and bounds of the aforesaid properties. However, the petitioner has also forwarded the aforesaid representations to the 2nd respondent in O.Mu.No.4550/2020/E2 dated 28.09.2020 by the Assistant Director of Survey & Land Records and Personal Assistant (Survey) to the District Collector, Coimbatore. Even thereafter, the petitioner had remitted the required fee for the same, the respondents have not taken any steps on the petitioner's representation. Hence, the petitioner has come forward with the present writ petition seeking appropriate relief.

3. The learned Government Advocate appearing for the respondents 1 and 2 submitted that the petitioner had purchased the aforesaid property. Subsequently, Pattas have also been mutated in his name. In the meanwhile, out of three purchasers, the petitioner only has applied for mutation of records before the Tahsildar seeking to measure and mark the metes and bounds of the petitioner's property and he has also produced the sale deed executed in favour of the petitioner vide Document No.2670/2009, dated 22.06.2009 and the same was mutated. Also, Joint Patta Nos.149 & 206 and Ward-21, Block-26, T.S.8, R.T.R.No.16728/2015/A1, dated 15.07.2015 have also



been issued in favour of the petitioner and others by the authorities concerned. He would further submit that the fourth respondent herein has given an objection on 10.8.2020 stating that the properties belonging to her forefather, and Mr.N.Senthilnathan, one of the legal heirs of Periya Gounder, has no right to sell the aforesaid properties and the same was rejected. However, all the relevant documents produced by the petitioner in support of his claim that measuring an extent of 0.05 acres in S.F.No.165/1; measuring an extent of 1.48 acres in S.F.No.166/2, and measuring an extent of 1.79 acres in S.F.No.166/3, altogether measuring the total extent of 3.32 acres belonging to her grandfather and his brother, jointly out of 3.32 acres 2.20 acres were sold by them during their lifetime. After completion of the sale agreement, measuring an extent of 1.12 acre in S.F.No.166/3 only remaining property was divided between them as 0.56 acres each to her grandfather, namely, Peria Gounder and his brother Chinnaperia Gounder, and their legal heirs.

4. He would further submit that in the aforesaid properties in S.F.No.166/3 was sub divided as 166/3A to the legal heirs of Chinnaperia Gounder and 166/3B with 0.56 to the Peria Gounder. The fourth respondent/Objector claims that the extent of 0.56 acres of land has been sold to third parties by the legal heirs of the Chinnaperia Gounder. Thus they have sold the total extent of 0.56 acres belonging to Chinnaperiya Gounder in S.F.No.166/3A and left with no land in S.F.No.166/3A as mentioned above and S.F.No.166/3B which belonged to the legal heirs of the Periya Gounder only. Upon inspection, the lands belonged to Periya Gounder in S.F.No.166/3B, his legal heirs of themselves have entered into family agreement, dated 02.01.2003, divided the 0.56 acres as per their consent. The fourth respondent has requested not to issue ownership certificate to the petitioner herein as the land stands in the name of the legal heirs of Periya Gounder, despite the said lands were sold by the legal heirs of Periya Gounder, namely, N.SenthilKumar, S/o.Nanjukutty Gounder when he has no right over the aforesaid property.

5. Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate appearing for the respondents 1 and 2 and perused the materials available on record.

6. On perusal of the records, it is seen that on receipt of the objection filed by the fourth respondent and enquiry was conducted by the authorities concerned on 19.08.2020 with the petitioner and the 4th respondent/objector and the same was decided based on the enquiry report in view of the petitioner has no right over the said property as per the Revenue Records. Both the parties claim right over the same, in which, leads to a dispute and they have instructed that the petitioner has also examined the possibility of filing a civil court to assert his right, wherein, the same relief to redress



his grievances by way of letter No.3247/2020/B4, dated 11.01.2021 issued by the first respondent and the legal heirs of Chinna Peria Gounder, namely, N.Senthil Kumar and others have already filed two suits in O.S.Nos.860 of 2003 and 2858 of 2006 before the Additional District Munsif Court, Coimbatore and the same were dismissed against the petitioner and others.

7. After hearing the arguments on either side, it is observed that the properties in question, joint pattas have also been issued in favour of the petitioner and others by the authorities concerned and no separate patta has been issued to the petitioner. It is submitted that the fact that the said Joint Pattas are lies in the name of the legal heirs of Peria Gounder, which lands owned 0.56 acres in S.F.Nos.166/3A and 166/3B in the name of Chinna Peria Gounder. Therefore, the legal heirs of the Peria Gounder have sold the aforesaid lands to various persons in the year 2002 and 2003 and no other land is left over for them. Hence, this Court is of the view that the aforesaid suits had been filed by the parties concerned and the same were dismissed. Furthermore, there cannot be any directions issued in this connection to the respondents to consider the petitioner's representation. However, it is left open to the petitioner to approach the competent civil Forum to redress his grievance.

8. It is also seen that the petitioner claims right from the said persons who have got no right over the said property and there is no clarity regarding the Joint Pattas issued by the authorities concerned in the name of the petitioner and others. Hence, all these points have been suppressed by the petitioner in this case. Though one of the legal heirs of the Chinnaperia Gounder, namely, N.Senthil Kumar and others had already been filed two suits in O.S.Nos.860 of 2003 and 2858 of 2006 before the Additional District Munsif Court, Coimbatore, and the same were dismissed against the petitioner and others. However, the representation of the petitioner may be considered by the authorities concerned and pass appropriate orders directing them to approach the competent civil Forum and hence, this Court is not inclined to allow the present writ petition and the same is liable to be dismissed.

9. Accordingly, the writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar



To

1. The Tahsildar,
Coimbatore North Taluk Office,
Dr. Balasundaram Road,
Nearby Women's Polytechnic College,
Gopalapuram, Coimbatore-641 108.

2. The Assistant Commissioner,
Coimbatore Corporation,
North Zone,
Coimbatore-641 012.

+1cc to Mr. R. Baskaradoss, Advocate SR. No. 45340

+1cc to Government Pleader SR. No. 45900

W.P.No.18299 of 2020

GPL (CO)
PR (07/02/2022)