



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2021

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.26916 OF 2021

Karuppusamy

... Petitioner

.Vs.

1. The Tahsildar,
Sathyamangalam,
Erode District.

2. Venkidusamy

... Respondents

PRAYER:-

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 1st respondent to fix the boundaries of the petitioner's land in R.S.No.392/1 to the extent of 2.64 acres, in R.S.No.392/2 to the extent of 1.19 acres, in R.S.No.393/1 to the extent of 1.76 acres and another 1.26 acres in R.S.No.393/1 of Sikkarasampalayam Village, Sathyamangalam Taluk, Erode District by considering the petitioner's representation dated 02.07.2020 within the time fixed by this Court.

For Petitioner : Mr.M.Karthik

For R1 : Mr.A.M.Ayyadurai
Government Advocate

ORDER

This writ petition has been filed to issue a Writ of Mandamus, directing the 1st respondent to fix the boundaries of the petitioner's land in R.S.No.392/1 to an extent of 2.64 acres, in R.S.No.392/2 to an extent of 1.19 acres, in R.S.No.393/1 to an extent of 1.76 acres and another 1.26 acres in R.S.No.393/1 of Sikkarasampalayam Village, Sathyamangalam Taluk, Erode District by considering the petitioner's representation dated 02.07.2020 within the time fixed by this Court.



2. The case of the petitioner is that the petitioner owned property ad-measuring to an extent of 2.64 acres comprised in R.S.No.392/1, property ad-measuring to an extent of 1.19 acres comprised in R.S.No.392/2, property ad-measuring to an extent of 1.76 acres comprised in R.S.No.393/1 and another property ad-measuring to an extent of 1.26 acres comprised in R.S.No.393/1 situated at Sikkarasampalayam Village, Sathyamangalam Taluk, Erode District. The 2nd respondent none other than the brother of the petitioner disturbed his possession and enjoyment of the same and as such, the petitioner filed suit in O.S.No.269 of 2015 on the file of the learned District Munsif Court, Sathyamangalam for bare injunction. It was decreed in his favour by the judgement and decree dated 14.03.2017 except the 5th item of the suit property which is not the subject matter of the present writ petition.

3. Aggrieved by the same, the 2nd respondent preferred appeal suit in A.S.No.40 of 2018 on the file of the Sub Court, Sathyamangalam and the same was dismissed by the judgement and decree dated 12.03.2019. In fact, the 2nd respondent also filed suit in O.S.No.146 of 2005 on the file of the learned District Munsif Court, Sathyamangalam for declaration. However, the said suit was dismissed by the judgement and decree dated 20.08.2013. Aggrieved by the same, the 2nd respondent also preferred appeal suit in A.S.No.41 of 2018 on the file of the Sub Court, Sathyamangalam and the same was also dismissed by the judgement and decree dated 12.03.2019.

4. Therefore, the petitioner made representation dated 02.07.2020 before the 1st respondent to survey and to fix the boundaries in respect of the subject properties and he has also paid requisite fees. On receipt of the same, the 1st respondent engaged Surveyor to survey and to fix the boundaries in respect of the subject properties. However, the 2nd respondent objected to survey the subject properties and as such, the 1st respondent directed the petitioner to approach the concerned Court. Admittedly, the suit filed by the petitioner was decreed in his favour and suit filed by the 2nd respondent was dismissed and confirmed by the appeal suit.

5. In view of the above, the 1st respondent is directed to engage the Surveyor to survey the subject properties for fixing the boundaries, after issuance of notice to the petitioner, the 2nd respondent and counter parties, if any, within a period of four weeks from the date of receipt of a copy of this order. It is also made clear that if any hindrance while surveying the subject properties, the 1st respondent is at liberty to seek necessary police protection to comply the direction issued by this Court.



6. With the above direction, this writ petition is disposed of. No costs.

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Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

dm

To

The Tahsildar,
Sathyamangalam,
Erode District.

+1cc to Mr.I.C.Vasudevan, Advocate, S.R.No.67574
+1cc to the Government Pleader, S.R.No.67958

W.P.NO.26916 OF 2021

CP(CO)
PBS/03/01/2022