



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **09.04.2021**

CORAM

THE HONOURABLE MR.JUSTICE **N.ANAND VENKATESH**

W.P. (MD)No.4565 of 2021

K.R.Jeyakumar

.. Petitioner

Vs.

1.The Tahsildar,
Vadipatti Taluk,
Madurai District.

2.The District Surveyor,
Madurai,
Madurai District.

.. Respondents

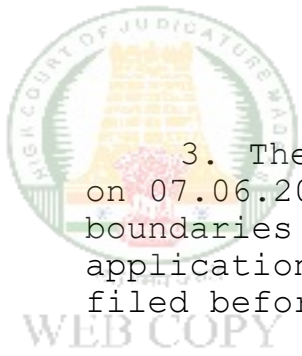
PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the 1st respondent to survey the petitioner's properties found in Re-Survey Number.195/5 of Kulasekaran Kottai Village, Vadipatti Taluk, Madurai District based upon his application dated 07.06.2019 and fix the four boundaries of his aforesaid property by issued patta in his favour.

For Petitioner	: Mr.C.M.Arumugam
For Respondents	: Mr.B.Bhagawathi, Government Advocate.

ORDER

This Writ Petition has been filed for the issue of a Writ of Mandamus, directing the first respondent to consider the application submitted by the petitioner on 07.06.2019 and to conduct a survey in the subject property and fix the boundaries and issue patta in the name of the petitioner.

2. The case of the petitioner is that the subject property originally belonged to one K.Chellapandi. The patta also stood in his name. The petitioner purchased the subject property, by virtue of a registered sale deed, dated 09.11.2018. In the meantime, one Alagarsamy filed a suit in O.S.No.470 of 2008, before the District Munsif Court, Vadipatti against Challapandi and another claiming for the relief of permanent injunction. The trial Court, after appreciating the oral and documentary evidence, found that the said Alagarsamy, does not have any right or title over the property and dismissed the suit by a judgment and decree dated 30.10.2019. Aggrieved by the same, the said Alagarsamy has filed an appeal before the Sub-Court, Madurai in A.S.No.102 of 2019 and the same is pending.



3. The petitioner made an application to the first respondent on 07.06.2019, seeking for the survey of the property and to fix the boundaries and for issuance of patta in his favour. Since this application was not considered, the present Writ Petition has been filed before this Court seeking for appropriate directions.

4. Mr. B. Bhagawathi, learned Government Advocate appearing on behalf of the respondents submitted that the first respondent is not in a position to consider the application submitted by the petitioner, since a civil suit is pending, at the stage of appeal before the Sub-Court, Madurai. The written instructions received by the learned Government Advocate was also circulated at the time of hearing.

5. In the considered view of this Court, the attempt made by one Alagarsamy to claim right over the subject property has been negatived by the trial Court and the same is now a subject matter of challenge in the appeal. The said Alagarsamy has to first establish his right over the property before the competent civil Court and only thereafter, he can seek for a patta in his favour. Admittedly, the patta stands in the name of K. Chellapandi, who is the vendor of the petitioner. The petitioner, by virtue of purchasing the property from K. Chellapandi, is automatically entitled to get the patta transferred in his favour. The petitioner need not wait for the completion of the proceedings initiated by the above said Alagarsamy.

6. In view of the above, there shall be a direction to the respondents to consider the application submitted by the petitioner on 07.06.2019 and proceed to conduct an enquiry and survey the property and consider the application of the petitioner to transfer the patta in the name of the petitioner. This process shall be completed by the respondents within a period of eight weeks from the date of receipt of a copy of this order.

7. The petitioner is directed to make a fresh representation to the respondents along with a copy of this order.

8. This Writ Petition is disposed of with the above direction. No costs.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.

To

1.The Tahsildar,
Vadipatti Taluk,
Madurai District.

2.The District Surveyor,
Madurai,
Madurai District.

+1 CC to M/s.SPL GP (SR-15852[F] dated 15/04/2021)

W.P. (MD)No.4565 of 2021

09.04.2021

vsm

RM (05.05.2021) 3P 4C