



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.03.2021

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THE HONOURABLE MR.JUSTICE V.PARTHIBAN

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W.P.(MD) No.5688 of 2021
and
W.M.P.(MD) No.4490 of 2021

P.Thangavel .. Petitioner

Vs

1.The Tahsildar,
Oddanchatiram Taluk,
Dindigul District.

2.The Taluk Surveyor,
Oddanchatiram Taluk,
Dindigul District.

3.The Inspector of Police,
Edaiyapatti Police Station,
Dindigul District.

4.Kandasamy .. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 1st respondent pertaining to the order bearing ROC.No.4154/2020-S dated 18-11-2020 and to quash the same and consequently directing the 2nd respondent to survey and marked the boundaries of the property in Survey No.28/1A, of Puliyur Natham Village, Dindigul District, admeasuring 0.30.50 hectares equal to 75 cents within a time frame that may be fixed by this Court.

For Petitioner : Mr.S.C.Herold Singh

For Respondents : Mr.R.Murugan
Additional Government Pleader

ORDER

The case of the petitioner is that he has submitted an application to the authorities concerned, requesting them for surveying of the subject property on 09.07.2020. In response to the said application, the 2nd respondent, by communication dated 08.08.2020, scheduled for the measurement of the property on



18.08.2020. A request was also made to the 3rd respondent on 17.08.2020 that the surveying of the land could be undertaken smoothly. Thereafter, there was no further action and hence, the petitioner submitted another representation on 25.08.2020. Simultaneously, the petitioner approached this Court in W.P.(MD) No.11243 of 2020 and this Court on 09.09.2020, disposed of the writ petition, directing the respondents to consider the representation of the petitioner. In consideration of the same, the present impugned order was passed by the 1st respondent on 18.11.2020, rejecting the request of the petitioner on the ground that the 4th respondent informed the authority that a civil suit is pending. Challenging the order dated 18.11.2020, the petitioner is before this Court.

2.From the above factual narrative, it could be seen that the 1st respondent cannot pass any orders in consideration of the request of the petitioner for surveying and demarcating the land as a suit is pending before the District Munsif Court, Oddanchatiram, where there is a rival dispute as to the title of the subject property.

3.In that view of the matter, it is certainly not open to the officials to survey the land in pursuance of the request of the petitioner. As rightly, the authority/1st respondent has clearly held as under:-

"During the enquiry the objector Thiru.Kandasamy stated that a civil suit in respect of the suit property along with an another property in S.No.28/1C is pending before the learned District Munsif Court Oddanchatram in No.59/2020 and requested to stop the measurement work in field No.28/1A of Puliyurnatham Village."

Further a verification of the Revenue Accounts in respect of S.No.28/1A it is revealed that the land is stands registered in the name of the petitioner along with 7 other including the objector under holding No.2398 of Puliyurnatham Village. In the absence of partition deed the filed stands with joint holdings could not be measured without the consent of the joint holder.

The petitioner in this writ suppressed the fact that the field in S.No.28/1A have been under the possession of 8 joint holder enjoying the land without any partition deed. Hence the correct area allotted to the petitioner could not assessed without a registered partition deed."

4.The above reasoning of the 1st respondent cannot be faulted with at all. In the face of the above facts and the right conclusion of the 1st respondent, this Court ought not to entertain this writ petition even for a moment. Therefore this Court cannot give any direction as prayed for by the petitioner in the face of the observation of the authority/1st respondent.



5. For the above said reasons, the writ petition stands dismissed on merits. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

1. The Tahsildar,
Oddanchatiram Taluk,
Dindigul District.

2. The Taluk Surveyor,
Oddanchatiram Taluk,
Dindigul District.

3. The Inspector of Police,
Edaiyapatti Police Station,
Dindigul District.

+1 CC to M/s.S.C.HEROLD SINGH, Advocate (SR-11255[F] dated 16/03/2021)

+1 CC to M/s.SPL GP (SR-11516[F] dated 16/03/2021)

W.P. (MD)No.5688 of 2021

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