



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.04.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) .No.8199 of 2021

WEB COPY

Thulasirajan

...Petitioner

Vs.

1. The District Collector,
Virudhunagar District.

2. The Tahsildar,
Vathirayiruppu Taluk,
Virudhunagar District.

3. The Firka Surveyor,
Office of the Tahsildar,
Vathirayiruppu Taluk,
Virudhuangar District.

4. S.Veera Lakshmi

... Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents 1 to 3 to survey and demarcate the boundary of the petitioner's land in S.F.Nos.1011/1N, 1012, 1013 and 1014/1 in W.Pudhupatti Village, Watrap Taluk, Virudhunagar District.

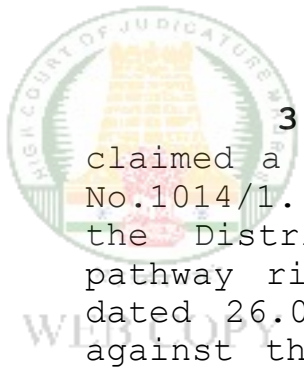
For Petitioner : Mr.M.Murugan

For R1 to R3 : Mr.S.Angappan
Government Advocate

ORDER

This Writ Petition has been filed for the issue of a Writ of Mandamus, directing the respondents to act upon the representation made by the petitioner to survey and demarcate the boundary with respect to the subject property.

2. The case of the petitioner is that the subject properties originally belong to one Thulasirajan, who had purchased the property, by virtue of a registered sale deed, dated 10.09.2007. The said Thulasirajan executed a power of attorney document in favour of the petitioner on 26.08.2008. The petitioner, thereafter, took control of the property and it is claimed that he has also fenced the property.



3. The fourth respondent and her husband seems to have claimed a pathway right over one of the survey numbers in Survey No.1014/1. A suit was filed in O.S.No.331 of 2012, on the file of the District Munsif Court, Srivilliputhur, claiming for the pathway right. This suit was dismissed by Judgment and Decree dated 26.06.2018. The further case of the petitioner is that against the dismissal of the suit, an appeal has been filed in A.S.No.41 of 2018 and the same is pending.

4. In the mean time, the said Thulasirajan also filed a suit in O.S.No.385 of 2012, on the file of the District Munsif Court, Srivilliputhur, seeking for the relief of declaration and permanent injunction, against the fourth respondent and her husband, with respect to all the subject properties and the suit was allowed by the Judgment and Decree dated 26.06.2018. According to the petitioner, the fourth respondent did not prefer any appeal against this Judgment and Decree and it became final.

5. The petitioner, thereafter, made a representation before the second and third respondents, seeking for the survey of the subject properties and for fixing the boundaries. The second respondent wanted to get a legal opinion in this regard and it is stated that the learned Central Government Advocate has also given a legal opinion to the effect that the survey can be conducted in the subject property.

6. The grievance of the petitioner is that in spite of the legal opinion, the second respondent has not yet taken any decision with regard to the survey of the subject property. Left with no other alternative, the present Writ Petition has been filed before this Court seeking for appropriate directions.

7. Heard Mr.M.Murugan, learned counsel appearing on behalf of the petitioner and Mr.S.Angappan, learned Government Advocate appearing for the respondents 1 to 3.

8. Taking into consideration the facts and circumstances of the case and without going into the merits of the case, there shall be a direction to the second respondent to deal with the representation said to have been given by the petitioner on 08.06.2020 on its own merits and in accordance with law and take a decision with regard to the survey of the subject properties, within a period of six (6) weeks from the date of receipt of a copy of this order. If there are any other interested parties claiming right over the subject property, they shall also be issued with notice and an opportunity shall also be given to them before conducting the survey.



9. The petitioner is directed to make a fresh representation to the second respondent along with all the relevant documents and also a copy of this order.

10. This Writ Petition stands disposed of with the above directions. No costs.

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Sd/-

Assistant Registrar (CS I)

/ True Copy/

/ /2021

Sub Assistant Registrar(CS)

Tsg

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 District Collector,
Virudhunagar District.
2. The Tahsildar,
Vathirayiruppu Taluk,
Virudhunagar District.
3. The Firka Surveyor,
Office of the Tahsildar,
Vathirayiruppu Taluk,
Virudhuangar District.

+1 CC to M/s.M.MURUGAN, Advocate (SR-17088[F]
dated 22/04/2021)

+1 CC to M/s.SPL GP (SR-16939[F] dated 21/04/2021)

Order made in
W.P. (MD) .No.8199 of 2021

20.04.2021

SSI (06.05.2021) 3P 6C