



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.08.2021

CORAM

THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P. (MD) .No.14572 of 2021

Udaiyappan

... Petitioner

Vs.

1.The Tahsildar,
Iluppur Taluk Office,
Iluppur Taluk,
Pudukottai District.

2.The Surveyor,
Taluk Tahsildhar Office,
Iluppur Taluk,
Pudukottai District.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus, directing respondents to measure the property in Survey No.296/1 located in Pudukottai District, Illuppur Taluk, Vayalogam Village, to the extent of 0.10.5 acre where the petitioner and his brothers are residing and issue a joint Patta in considering the representation dated 15.06.2021.

For Petitioner : Mr.C.Nagamuthu

For Respondents : Mr.R.Baskaran

Counsel for State

ORDER

The petitioner seeks the measurement of the property in Survey No.296/1 at Pudukottai District, Illuppur Taluk, Vayalogam Village.

2.The petitioner claims to reside in the property described above. It is further claimed by the petitioner that such property is classified in the relevant revenue records as poramboke nanthavanam land. The petitioner claims to be in continuous possession and enjoyment of the said property for more than 40 years.

3.The petitioner admits that a suit was filed by three persons, including the petitioner's wife, and that the said suit was dismissed by judgment and decree dated 29.03.2021. However, the petitioner emphasizes that the said suit was dismissed only on the ground that a civil court should not take over the statutory duties of the revenue authorities and that, therefore, a person seeking survey or the issuance of a joint patta should call upon the revenue authorities to perform their statutory duties in such regard.

4.Mr.R.Baskaran, learned counsel for the State, accepts notice on behalf of both the respondents. He refers to the judgment and decree in the civil suit and, in particular, the Court's finding



on Issue No.3 to the effect that the petitioner had failed to establish that the property in question was in their possession and enjoyment as also that the petitioner's claims over the property are not in accordance with law.

5.A person seeking a survey of a property and issuance of joint patta in respect thereof should at least *prima facie* establish that he has a legitimate interest in the property in question. In the case at hand, the stand of the Government is clear even from Paragraph No.6 of the affidavit in support of the petition, wherein the State stand that the land is not "nanthavanam" is recorded. In addition, as correctly pointed out by learned counsel for the State, the Civil Court has entered a finding that the petitioner has not established possession and that the petitioner's claims are not in accordance with law.

6.For the reasons aforesaid, the present Writ Petition is liable to be rejected. Accordingly, W.M.P(MD).No.14572 of 2021 is dismissed without any order as to costs.

Sd/-

Assistant Registrar (CS II)

// 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,
Iluppur Taluk Office,
Iluppur Taluk,
Pudukottai District.
- 2.The Surveyor,
Taluk Tahsildhar Office,
Iluppur Taluk,
Pudukottai District.

+1 CC to M/s.The Special Government Pleader (SR-26780[F] dated 19/08/2021)

W.P. (MD) .No.14572 of 2021
18.08.2021

RS (27.08.2021) 2P 4C

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