



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.08.2021

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THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P(MD)No.14919 of 2021

K.Muthaiah

... Petitioner

Vs.

1.The Tahsildar,
Uthamapalayam Taluk,
Theni District.

2.The Taluk Surveyor,
Office of the Tahsildar,
Uthamapalayam Taluk,
Uthamapalayam,
Theni District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to survey the petitioner's land comprised in Survey No.1697/1A1, Patta No.3051 with an extent of 858 square feet situated in Uthamapalayam, Uthamapalayam Taluk, Theni District and demarcate its boundaries based on the petitioner's application dated 17.03.2021 within a time stipulated by this Court.

For Petitioner : Mr.P.Gunasekaran

For Respondents : Mr.R.Baskaran,

Counsel for State for R-1 & R-2

ORDER

The petitioner seeks a survey of the land comprised in Survey No.1697/1A1 of an extent of 858 square feet in Uthamapalayam Taluk, Theni District.

2. The petitioner states that he purchased the property from one Mr.M.Amanullakhan under a registered sale deed dated 04.12.2006. Subsequently, Patta No.3051 was issued to the petitioner on 08.11.2010. On account of a dispute between the petitioner and the said M.Amanullakhan, the petitioner filed O.S.No.31 of 2017 on the file of the District Munsif, Uthamapalayam. The said suit was decreed in favour of the petitioner on 15.07.2019. The petitioner states that such decree was passed after recording the undertaking of the said M.Amanullakhan that he would not dispute the petitioner's possession in future.



3. Mr.R.Baskaran, learned counsel for the State, accepts notice on behalf of both the respondents. He submits that the petitioner's application for survey may be directed to be considered and disposed of on merits.

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4. The petitioner has enclosed the sale deed dated 04.12.2006, the patta dated 08.11.2010 in his name and the judgment and decree dated 15.07.2019 in O.S.No.31 of 2017. Although the petitioner asserts that such judgment and decree is on the basis of an undertaking by Mr.M.Amanullakhan, it cannot be concluded with certainty that no appeal has been filed in respect of such judgment and decree. Therefore, if there are objections to the conduct of a survey at the request of the petitioner, the respondents herein would be obligated to consider such objections before taking a decision.

5. Accordingly, without going into the merits of the matter, the respondents herein are directed to consider the petitioner's application dated 17.03.2021 requesting for a survey and dispose of such application by a reasoned order within a period of three (3) months from the date of receipt of a copy of this order, after providing a reasonable opportunity to the petitioner, the adjoining land owners who may be affected by such survey and other objectors, if any.

6. W.P.(MD).No.14919 of 2021 is disposed of on these terms without any order as to costs.

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 Tahsildar,
Uthamapalayam Taluk,
Theni District.

2.The Taluk Surveyor,
Office of the Tahsildar,
Uthamapalayam Taluk,
Uthamapalayam,
Theni District.

+1 CC to M/s.GP (SR-27184[F] dated 25/08/2021)

W.P (MD) No.14919 of 2021
24.08.2021

ps (CO)
TR(02.09.2021) 3P 4C