



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.09.2021

CORAM

THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P(MD).No.16128 of 2021

Petchiammal

... Petitioner

Vs.

1.The Commissioner of Land Administration,
Ezhilagam, Chepauk,
Chennai.

2.The District Collector,
Virudhunagar.

3.The District Revenue Officer,
Virudhunagar.

4.The Revenue Divisional Officer,
Virudhunagar.

5.The Thasildar,
Aruppukottai Taluk,
Virudhunagar District.

6.The Block Development Officer,
(Village Panchayats),
Virudhunagar.

... 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 consider the petitioner's representation dated 22.08.2021 and to resurvey the properties in Survey Nos.388/1 and 388/5, Soolakkarai Village, Aruppukkottai Taluk, Virudhunagar District and the presently running cart track in Survey No.388/3 and to correct the survey sketch by shifting the diagonally ran cart track in between Survey Nos.388/1 and 388/5 to the western and southern margins of the property in Survey No.388/1.

For Petitioner : Mr.T.R.Jeyapalam

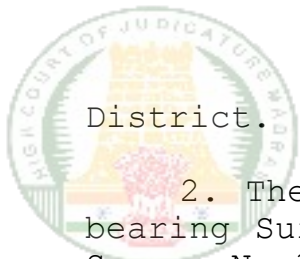
For Respondents : Mr.P.Subbaraj

Counsel for the State for R1 to R5

: Mr.M.Lingadurai for R6

ORDER

The petitioner seeks the consideration of her representation dated 22.08.2021 for the resurvey of properties in Survey No.388/1 and 388/5, Soolakkarai Village, Aruppukkottai Taluk, Virudhunagar



District.

2. The petitioner states that she is the owner of the property bearing Survey No.388/1 measuring 85 cents and the property bearing Survey No.385/5 measuring 98 cents. Patta No.904 is cited in support of this submission. Originally, it is stated that a cart track in Survey No.388/3 cut across Survey No.388/1 and 388/5 diagonally. The said cart track was said to be of the width of 16 feet.

3. According to the petitioner, the narrow cart track made it difficult for the adjoining land owners to use the same to transport men and material either by using tractors or bullock carts. Therefore, on their request, the petitioner's husband earmarked a cart track with a width of 20 feet on the western and southern margin of the property in Survey No.388/1. Therefore, it is stated that the existing cart track has a width of 20 feet. After the death of the petitioner's husband on 27.04.2017, the petitioner states that she and her children have inherited his estate. The petitioner also states that she has no objection to the laying of a metal road in the currently existing cart track. In such circumstances, the petitioner sent a representation on 22.08.2021 to the respondents requesting them to resurvey the properties in Survey No.388/1 and 388/5 and to correct the survey sketch by shifting the cart track to the western and southern margin of Survey No.388/1. It also appears that the 5th respondent has issued a notice dated 26.08.2021 to the petitioner under section 6 of the Land Encroachment Act 1905. The present writ petition is filed in these facts and circumstances.

4. Mr.P.Subbaraj, learned counsel for the State, accepts notice on behalf of respondents 1 to 5 and Mr.M.Lingadurai, learned Standing Counsel, accepts notice for the 6th respondent. Mr.P.Subbaraj, submits that the 1st respondent may be directed to consider the petitioner's representation on merits and in accordance with law.

5. From the facts and documents on record, it appears that the petitioner is effectively requesting for an exchange of land, whereby the cart track, as it stood originally, would be shifted to the southern and western margin of the property bearing Survey No.388/1. As a result, the petitioner would become the owner of the land bearing Survey No.388/3 wherein the original cart track was present. The relevant board/revenue standing orders empower the authorities to consider a request for such an exchange. However, the question as to whether the petitioner fulfils the conditions in such regard and whether such benefit should be extended to the petitioner is a matter to be considered and decided by the first respondent.

6. Accordingly, without going into the merits of the matter, the 1st respondent herein is directed to consider the petitioner's representation dated 22.08.2021 and pass a reasoned order thereon.



within a period of three months from the date of receipt of a copy of this order after providing a reasonable opportunity to the petitioner and any others who would be affected by such decision.

7. W.P.(MD).No. 16128 of 2021 is disposed of on these terms without any order as to costs.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sbm

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 Commissioner of Land Administration,
Ezhilagam, Chepauk, Chennai.
- 2.The District Collector,
Virudhunagar.
- 3.The District Revenue Officer,
Virudhunagar.
- 4.The Revenue Divisional Officer,
Virudhunagar.
- 5.The Thasildar,
Aruppukottai Taluk,
Virudhunagar District.
- 6.The Block Development Officer,
(Village Panchayats),
Virudhunagar.

+1 CC to M/s.T.R.JEYAPALAM, Advocate (SR-28854[F]
dated 13/09/2021)

+1 CC to M/s.SPL GP (SR-28813[F] dated 13/09/2021)

W.P(MD).No.16128 of 2021

09.09.2021

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