



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.02.2021

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THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P. (MD) No.19729 of 2020

WEB COPY

S.Murugan

.. Petitioner

VS

1.The Tahsildar,
Cheranmahadevi Taluk,
Tirunelveli District.

2.The Taluk Surveyor,
Cheranmahadevi Taluk,
Tirunelveli District.

3.Banumathi

4.Muthappa

.. Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents 1 and 2 to take necessary steps to measure the land and fix the four boundaries bearing S.F.No.70/58 to an extent of 0.00.65 Hectare and S.No.70/60 to an extent of 0.00.97 Hectare situated at Arasankulam Village, Cheranmahadevi Taluk, Tirunelveli District belonging to the petitioner with the necessary police protection, by considering the petitioner's representation dated 17/12/2020 within a stipulated time in accordance with law.

For Petitioner : Mr.M.Prabu

For R1 & R2 : Mr.R.Murugan
Additional Government Pleader

For R3 & R4 : No appearance

ORDER

This Writ Petition is filed to direct the respondents 1 and 2 to measure and fix the four boundaries of the land bearing S.F.No.70/58 to an extent of 0.00.65 Hectare and S.No.70/60 to an extent of 0.00.97 Hectare situated at Arasankulam Village, Cheranmahadevi Taluk, Tirunelveli District.

2.Notice was ordered by this Court on 04.01.2021 and in response to the same, Mr.R.Murugan, learned Additional Government Pleader, entered appearance on behalf of the respondents 1 and 2



and a counter affidavit has also been filed on behalf of the 1st respondent. The objection of the official respondent in considering the claim of the petitioner is extracted hereunder:-

"6.It is submitted as per the Arasangulam Village nathan adangal revenue records, the said land was in the name of the 3rd respondent and thereafter as per RTR3830/19, the petitioner and 2 others name was mentioned in the revenue records. Hence, due to the continuous possession of the property by the 3rd respondent and due to the objection made by the 3rd and 4th respondents, the event of survey could not be carried out by this respondent. Hence the representation given by the petitioner for surveying the property was duly rejected by this respondent vide O.Mu.No.B2/1230/20 dated 04.01.2021. Moreover the petitioner if aggrieved has to be approach the civil forum to establish his title over the property."

3.The above averments would show that there appears a real dispute as to who is having a valid title to the property in question. In view of the rival claim, the official respondent could not survey and measure the subject land at the instance of the petitioner. Therefore, the official respondent has advised the petitioner to workout his remedies by approaching the competent civil Court even before seeking for surveying and measuring the subject land.

4.This Court is in agreement with the rejection order passed by the 1st respondent, dated 04.01.2021 and finds no infirmities in the stand taken by the official respondent. It is always open to the petitioner/aggrieved party to approach the competent civil Court to establish his claim before seeking measuring and surveying of the subject land, which cannot be resolved by this Court in exercising its extraordinary jurisdiction under Article 226 of the Constitution of India.

5.In view of the above, this Court finds that this Writ Petition is not maintainable and hence, the same stands dismissed. No costs.

Sd/-

Assistant Registrar (AD 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,
Cheranmahadevi Taluk,
Tirunelveli District.

2.The Taluk Surveyor,
Cheranmahadevi Taluk,
Tirunelveli District.

+1 CC to SGP (SR-3058[F] dated 03/02/2021)

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KM (17.02.2021) 3P 4C