



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.12.2021

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.21453 of 2021

and W.M.P(MD)No.18019 of 2021

WEB COPY

T.Muthu Krishnan

... Petitioner

Vs.

1.The Tahsildar,
Theni Taluk,
Theni District.

2.The Firka Surveyor,
Theni Taluk,
Theni District.

3.Rajagopal

... Respondents

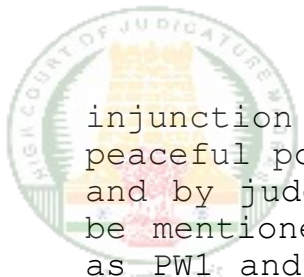
Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1 and 2 herein to conduct survey and fix boundaries in respect of the Survey Nos.33/1A, 33/1B and 34/3A situated in Upparpatty Village, Theni Taluk, Theni owned by the petitioner as per document No.5705 of 2005 and Patta No.920, 504 and 317 issued by the first respondent complying the circular in R.C.No.Q5/20403/2020 dated 15.03.2021 issued by the commissioner of survey and settlement based on the petitioner's representation dated 06.09.2021 and considering the required fees paid on 28.07.2021.

For Petitioner : Mr.A.Mithun Chakravarthi
For R-1 and R-2 : Mr.N.Satheesh Kumar,
Additional Government Pleader.

ORDER

The Writ Petition has been filed in the nature of Mandamus seeking a direction against the first respondent / the Tahsildar, Theni District and the second respondent / The Firka Surveyor, Theni District to conduct survey and fix boundaries with respect to the property in Survey Nos.33/1A, 33/1B and 34/3A at Upparpatty Village, Theni Taluk, Theni.

2. The petitioner claims that he is the owner of the said property, having purchased the same by Document No.5705/2005, dated 17.10.2005. The third respondent had also instituted a suit in O.S.No.4 of 2009 on the file of the District Munsif Court, Theni, in which the petitioner herein was shown as the first defendant. The said suit was filed against the present petitioner seeking



injunction that the petitioner herein should not interfere with the peaceful possession of the third respondent. The suit went to trial and by judgment dated 27.09.2010, the suit was dismissed. It must be mentioned that the third respondent herein had examined himself as PW1 and to substantiate his claims, had also marked exhibits P1 to P4.

3. In view of the fact that the right of the petitioner herein had been recognized by the Civil Court and also, the petitioner claims title on the basis of a registered document, it is only appropriate that his expectation is that the property should be surveyed, the measurements should be taken and also inquired into by the revenue authorities. In view of this particular fact though there is a third respondent, notice is dispensed with.

4. In view of the fact that the suit filed by the third respondent had been dismissed by the Civil Court after recording evidence and appreciation of evidence, a direction is given to the first and second respondents to take into consideration the representation of the petitioner and also take into consideration that the petitioner herein had also paid necessary charges and proceed further to conduct survey of the lands of the petitioner.

5. While doing so, the first respondent may also issue notice to the third respondent and specifically inquire whether any further appeal has been filed questioning dismissal of the aforementioned suit and if the property is identifiable, proceed to survey the property and mark the boundary stones as stated in the representation / application given by the petitioner herein. The first respondent may also examine the title deeds of the property of the petitioner before venturing into such activity. The entire exercise shall be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order. I am confident that the first respondent would also take resort to seek protection for discharge of any official duty as mentioned here.

6. With the said observations, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

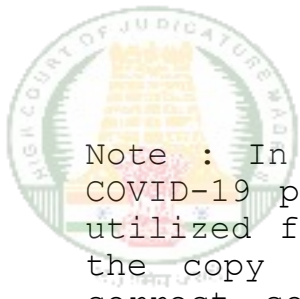
Assistant Registrar(CS-)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Lm/Nsr



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,
Theni Taluk,
Theni District.

2.The Firka Surveyor,
Theni Taluk,
Theni District.

+1 CC to M/s.SPL GP (SR-37576[F] dated 07/12/2021)

**W.P (MD) No.21453 of 2021
06.12.2021**

kmv (CO)
TR(14.12.2021) 3P 4C