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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.2923 OF 2020

1. Balakrishnan
2. Rukmani

... Petitioners

Vs

1. The District Collector,
Office of the Krishnagiri District Collectorate,
Krishnagiri District,
Tamil Nadu - 635 117.
2. The Tahsildar,
Office of the Taluk Admnistration,
Shoolagiri Town and Post,
Krishnagiri District,
Tamil Nadu - 635 117.
3. The Taluk Surveyor,
Office of the Taluk Administration,
Shoolagiri Town and Post,
Krishnagiri District,
Tamil Nadu - 635 117.
4. The Firka Surveyor,
Office of the Taluk Administration (Berikai Firka),
Shoolagiri Town and Post,
Krishnagiri District,
Tamil Nadu - 635 117.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the third and fourth respondents to survey the land and fix the boundary of the petitioner's property ad-measuring an extent of Acre 2.41 cents of the land Survey No.104/1 of Kumbalam Village, Shoolagiri Taluk, Krishnagiri District, Tamil Nadu - 635 117 within the time stipulated by this Court.

For Petitioners : Mr.Taslim Arif, A.J

For Respondents : Mr.P.Baladhandayutham
Special Government Pleader



ORDER

This writ petition is filed to issue a Writ of Mandamus to direct the third and fourth respondents to survey the land and fix the boundary of the petitioners' property ad-measuring an extent of Acre 2.41 cents of the land comprised in Survey No.104/1, situated at Kumbalam Village, Shoolagiri Taluk, Krishnagiri District, Tamil Nadu - 635 117, within the time that may be stipulated by this Court.

2. On written instructions from the second respondent, the learned Special Government Pleader submitted that the land comprised in S.No.104/1 ad-measuring an extent of 1.95.0 hectares under Patta No.195 stands in the name of one R.Kuthimuniyappa and R.Thimmarayappa as joint pattadars. One of the joint pattadarar, viz., the said R.Thimmarayappa sold out the part of the said property ad-measuring an extent of 2.41 acres by the registered sale deed, vide Document No.1784 of 2014 in favour of the second petitioner. However, the other joint pattadar did not sign in the said sale deed and as such, he filed a suit in O.S.No.221 of 2014 in respect of the subject property. Thereafter, the suit was dismissed and aggrieved by the same, the the said R.Kuthimuniyappa filed an Appeal in Appeal Suit No.27 of 2020 and it is pending on the file of the Subordinate Court, Hosur. Therefore, while pending the said Appeal Suit, the request made by the petitioners cannot be considered.

3. It is curious to note that, admittedly, one of the joint Pattadar, viz., the said R.Thimmarayappa executed the sale deed in favour of the second petitioner herein ad-measuring an extent of 2.41 acres comprised in Survey No.104/1, situated at Kumbalam Village, Shoolagiri Taluk, Krishnagiri District. The suit filed by the said R.Kuthimuniyappa was dismissed and the Appeal Suit is pending. Therefore, the petitioners are entitled to the relief sought in their application to survey and fix the boundary as per the sale deed, registered vide document No.1784 of 2014, dated 16.05.2014.

4. In view of the above discussion, the second respondent is directed to survey the land and fix the boundary of the petitioners' property ad-measuring an extent of Acre 2.41 cents of the land comprised in Survey No.104/1, situated at Kumbalam Village, Shoolagiri Taluk, Krishnagiri District, within a period of four weeks from the date of receipt of a copy of this order. It is made clear that the pendency of the Appeal Suit is not an impediment for the second respondent to survey and demarcate the boundary for the subject property as per the sale deed dated 16.05.2014.



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5. With the above direction, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

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+1cc to the Government Pleader, S.R.No.2768

W.P.No.2923 of 2020

PL(CO)
PM/31/01/2022