



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2022

C O R A M

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.27967 OF 2012

AND

W.M.P.NOS.2, 3 OF 2012 & W.M.P.NO.1 OF 2013

Dr. J. Premkumar

... Petitioner

Vs

1. The Secretary to Government,
Revenue Department,
St.George Fort,
Chennai.
2. The Commissioner,
Survey and Settlement,
Survey House,
Chepauk,
Chennai-5.
3. The District Collector,
Nagercoil
Kanyakumari District.
4. The Tahsildar,
Thovalai Taluk,
Thovalai,
Kanyakumari District.
5. The Head Surveyor,
Thovalai Taluk,
Thovalai,
Kanyakumari District.
6. Mrs.Vasuki,
Tahsildar,
Thovalai Taluk Office,
Thovalai,
Kanyakumari District.

... Respondents



PRAYER :

Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents 2 & 3 to depute a qualified surveyor to measure the petitioner's property viz, 1 Acre 3 cents owned by them as per sale deed No.2030 of 2006 and patta No.985 in S.No.73/2 of Erachakulam Village, Thuvalai Taluk, Kanyakumari District and restore 60 cents of land forcefully dispossessed by the respondents 4 & 5 and consequentially order an enquiry against the 4th and 5th respondents based on the petitioner's complaint dated 08.10.2012 to the respondents 2 & 3 and direct the respondents 4 & 5 to pay compensation for the loss caused to the petitioner.

For Petitioner ... M/s. C. Robert Bruce

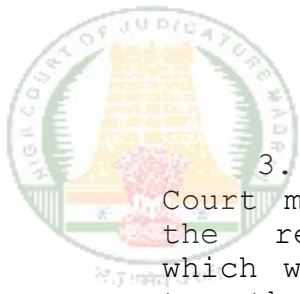
For Respondents ... Mr. T. Chezhiyan,
Additional Government Pleader for R1 to R5

M/s. Jayaprakash Narayanan for R6.

O R D E R

The present petition has been filed seeking a direction to the respondents 2 & 3 to depute a qualified surveyor to measure the petitioner's property, to restore 60 cents of the petitioner's land which was forcibly dispossessed by the respondents 4 & 5, to conduct an enquiry against the respondents 4 & 5 and further to direct the respondents 4 & 5 to pay the compensation towards the loss incurred by the petitioner.

2. It is the case of the petitioner that he had purchased the property and he was in possession of the said property comprised in R.S.No.73/2 to an extent of 1 Acre 3 cents, by way of a sale deed dated 20.10.2006. While being so, the respondents 4 & 5 have forcibly removed the compound wall of the petitioner's property and they have also removed many trees from the said property thereby causing huge amount of loss to the petitioner. Aggrieved by the same, the petitioner made a complaint before the respondents 2 & 3 with regard the illegal act of the respondents 4 & 5. However, till date, the same has not been considered. Hence, the present petition is filed seeking the aforesaid relief.



3. Learned counsel for the petitioner submits that this Court may direct the respondents 2 & 3 to take action against the respondents 4 & 5 and to restore the petitioner's land which was taken possession by them and to pay the compensation to the petitioner towards the damages incurred by the petitioner, within the time stipulated by this Court.

4. Learned Additional Government Pleader appearing for respondents 1 to 5 submits that adjacent to the petitioner's land, there is a poromboke land which was assigned in favour of transgenders under a flagship scheme called Indira Awas Yojana. Since, there was no boundaries to demarcate the lands, the respondents have inadvertently entered into the petitioner's land and further, no damages were caused to the petitioner's land by the respondents 4 & 5. Hence, this Writ Petition seeking compensation towards alleged damages caused is not sustainable. Therefore, the prayer sought for in this Writ Petition cannot be granted.

5. Heard the learned counsel on the either side and perused the materials available on record.

6. A careful perusal of the materials available on record reveals that, adjacent to the land in R.S.No.73/2 belonging to the petitioner, there was a 'natham' land which was allotted in favour of the beneficiaries under the Central Government scheme. The learned counsel for the petitioner alleges that the petitioner's land was trespassed and damages have been caused to the petitioner's land.

7. The issue arises in this Writ Petition with regard to the boundaries between the subject lands, being a disputed question of fact, this Court, under Article 226 of the Indian Constitution, cannot decide the issue between the parties. Hence, the prayer sought for in this petition cannot be granted. However, it is also fairly submitted by the learned Additional Government Pleader that while demarcating the boundaries, the respondents 4 & 5 have entered into the property of the petitioner. The said statement is recorded.

8. If the petitioner has any grievance, the petitioner is at liberty to workout the remedy in the manner known to law. However, with regard to payment of compensation towards the damages, if any, caused to the petitioner's land, it is open for the petitioner to approach the competent Civil court for



necessary relief.

9. Accordingly, this Writ Petition is disposed of with the aforesaid direction. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

NHS

To

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6. Tahsildar,
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Thovalai, Kanyakumari District.

+1cc to the Government Pleader, S.R.No.9252

W.P.No.27967 of 2012

PMK(CO)
PM/19/04/2022