



WEB COPY



WP No. 11973 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.05.2022

CORAM

**THE HONOURABLE MR. JUSTICE R. MAHADEVAN**

W.P. No. 11973 of 2022

S.Meenatchi

.. Petitioner

Versus

1. The District Collector,  
District Collectorate,  
Namakkal District
2. The Tahsildar,  
Tahsildar Office,  
Rasipuram Taluk, Namakkal District.
3. The Chief Land Surveyor,  
Tahsildar Office,  
Rasipuram Taluk,  
Namakkal District.
4. The Field Surveyor,  
Vennandur Block,  
Rasipuram Taluk,  
Namakkal District.
5. The Village Administrator Officer,  
VAO Office, Nachipatti Village,  
Rasipuram Taluk,  
Namakkal District.

6. R.Subramanian
7. R.Thangavel
8. B.R.Madeshwaran

... Respondents



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Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 2<sup>nd</sup> respondent to consider the petitioner's representation dated 11.04.2022 and conduct enquiry and pass orders upon the same before surveying the lands in Survey Nos.37/13B, 7/15A, 37/15C, 37/4, 37/9, 37/10, 37/13A, 37/14, 37/15B, 37/15D and 37/16 within a time frame as fixed by this Hon'ble Court.

For Petitioner : Mr. R. Krishna Prasad  
for M/s.Sarvabhauman Associates

For Respondents : Mr. M. Bindran  
Additional Government Pleader for R1 to R5

### **ORDER**

The petitioner has come forward with this writ petition seeking a direction to the 2<sup>nd</sup> respondent to consider her representation dated 11.04.2022, conduct an enquiry and pass orders on the same before surveying the property in dispute, within a time frame fixed by this Court.

2. It is stated that the petitioner has filed a suit for partition in O.S. No. 264 of 2008 before the Subordinate Judge, Rasipruam, claiming 1/4<sup>th</sup> share in the property situate at Nachipatti Village, Rasipuram Taluk, Namakkal District in Survey Nos.37/13B, 7/15A, 37/15C, 37/4, 37/9, 37/10, 37/13A, 37/14, 37/15B, 37/15D and 37/16. The said suit was filed by the petitioner against her father and brothers by contending that the plaint described properties were purchased by her father from and out of ancestral nucleus. In



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the said suit, an interim injunction was granted on 27.08.2008 restraining the defendants therein from alienating the property under dispute. It is also stated that inspite of the grant of an interim order, the first defendant in the suit had sold the property in dispute to the respondents 6 to 8 herein under registered sale deeds and on coming to know about the said fact, the petitioner impleaded them as defendants 5 to 7 in the said suit. It is further stated that on 21.12.2016, for non-appearance of the petitioner/plaintiff, the suit was dismissed for default and therefore, she filed an application to set aside the order of dismissal and the application is pending.

3. It is also stated by the petitioner that pending suit, the respondents 6 to 8 herein have filed W.P. Nos. 26622, 27539 and 28032 of 2021 before this Court seeking a direction to the respondents 1 to 5 herein to survey the property in dispute as per the sale deeds executed in their favour by considering their applications and representations thereof. By separate orders dated 15.12.2021, 03.01.2022 and 04.01.2022, the said writ petitions were disposed of by issuing a direction to the 2<sup>nd</sup> respondent herein to conduct enquiry and pass orders to survey the lands in dispute after issuing notice to the concerned parties and adjacent land owners, within a period of six weeks therefrom.



4. It is the grievance of the petitioner that though she had obtained an interim injunction in the above suit restraining the defendants from alienating the property in dispute as early as on 27.08.2008 and the suit is still pending, the respondents 6 to 8, who are very much aware of the interim injunction granted in the suit, proceeded to purchase the property in dispute and filed the writ petitions without impleading the petitioner and even without disclosing the pendency of the said suit. Therefore, the alienation and/or purchase of the property, pending interim injunction in the suit filed by her and the order obtained from this Court for surveying the lands, without impleading the petitioner is illegal. In this context, the petitioner has submitted a detailed representation to the second respondent stating that before conducting enquiry with regard to surveying of lands, she should be given an opportunity to put forward her case, but till date, the petitioner was neither called upon for an enquiry nor she had received any reply. Therefore, left with no other alternative, the petitioner has filed the writ petition for the aforestated relief.

5. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.



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6. It is seen from the records that in connection with the disputed property, different writ petitions were filed by the subsequent purchasers and this Court passed orders in W.P. Nos. 26622, 27539 and 28032 of 2021 on 15.12.2021, 03.01.2022 and 04.01.2022 respectively, whereby, the 2<sup>nd</sup> respondent was directed to conduct enquiry and pass orders to survey the land in dispute in the presence of all the parties concerned. The petitioner, who claims 1/4<sup>th</sup> share in the property, also seeks for an opportunity to put forth her case while conducting an enquiry, as per the order passed by this Court.

7. Considering the facts and circumstances of the case and having regard to the submissions made on either side, this court directs the 2<sup>nd</sup> respondent to grant an opportunity of personal hearing to the petitioner to put forth her case, while conducting enquiry with regard to survey of lands in dispute and conduct survey in the presence of all the parties concerned as per the direction made in the aforesaid writ petitions and pass appropriate orders on merits and in accordance with law.

8. Accordingly, the writ petition stands disposed of. No costs.

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Index : Yes / No

kmi/rsh

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**R. MAHADEVAN, J**

kmi/rsh

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