



WEB COPY



W.P.No.41629 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2022

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.41629 of 2016

P.Duraisamy

.. Petitioner

Versus

1.The Assistant Director
Land Survey Records
Collectorate Building
Erode – 638 011

2.The Sub Collector
Gobichettipalayam
Erode District

3.The Tahsildar
Gobichettipalayam Taluk
Gobichettipalayam
Erode District

4.N.Kalippan
5.N.Ravichandran
6.N.Shanumgam

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondents 1 to 3 to cancel the entire survey proceedings in respect of S.F.No.262/1, Kolapalur Village, Gobichettipalayam Taluk, Erode District and take action against those who failed to comply with Sec.9 and 10 of the Tamil Nadu Survey and



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Boundaries Act, 1923 by considering the petitioner's representation dated 09.09.2016.

For Petitioner : Mr.N.Manokaran
For Respondents : Mr.T.K.Saravanan for R1 - R3
Government Advocate
Mr.V.P.K.Gowtham for R4 – R6

ORDER

This writ petition is filed seeking to direct the respondents 1 to 3 to cancel the entire survey proceedings in respect of S.F.No.262/1, Kolapalur Village, Gobichettipalayam Taluk, Erode District and take action against those who failed to comply with Sec.9 and 10 of the Tamil Nadu Survey and Boundaries Act, 1923 by considering the petitioner's representation dated 09.09.2016.

2. According to the petitioner, he is in enjoyment of 5.84 ½ acres comprised in S.No.262/1, Kolappalur Village, Gobichettipalayam Taluk by virtue of a registered sale agreement dated 25.11.2010 in Doc.No.3981/2010 executed by one V.Kandasamy. However, the said V.Kandasamy has not executed the sale deed. Hence, the petitioner filed a suit in O.S.No.54 of 2013 on the file of the learned District Munsif Court, Gobichettipalayam for specific performance or in the alternative for refund of the advance amount. While so, the neighbouring owners namely the private respondents colluded with the



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revenue officials and the revenue officials trespassed into the petitioner's property with henchmen under the guise of conducting survey and intimated the petitioner with dire consequences. The grievance of the petitioner is that the revenue officials has not followed Section 9 and 10 of the Tamil Nadu Survey and Boundaries Act, 1923. Hence, this petition to cancel the entire survey proceedings.

3. The learned counsel for the petitioner submitted that the during the pendency of this writ petition, the suit in O.S.No.54 of 2013 on the file of the learned District Munsif Court, Gobichettipalayam was dismissed against which the petitioner had preferred appeal. Further, without procedure contemplated under Section 9 and 10 of the Tamil Nadu Survey and Boundaries Act, 1923, the revenue officials had conducted the survey which is unsustainable one. Hence, seeks this Court to set aside the entire survey proceedings conducted by the revenue officials in S.No.262/1.

4. Heard both sides and perused the materials placed on record. Admittedly, the facts of the present case are not in dispute. The petitioner entered into a sale agreement dated 25.11.2010 in Doc.No.3981/2010 executed



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by one V.Kandasamy. However, the said V.Kandasamy has not executed the sale deed. Hence, the petitioner filed a suit in O.S.No.54 of 2013 on the file of the learned District Munsif Court, Gobichettipalayam for specific performance or in the alternative for refund of the advance amount. Subsequently, the said suit was dismissed during the pendency of this writ petition and the petitioner has preferred appeal. The grievance of the petitioner is that the revenue officials under the guise of conducting enquiry in the neighbouring lands of the private respondents in S.No.262/2 has entered into the petitioner's property. However, the facts remains that the petitioner has no right to claim over the property in S.No.262/1 on the basis of a sale agreement, which is said to have been dismissed and also, the petitioner has no right to object the neighbouring land owners to survey their respective properties.

5. In view of the above observation, this writ petition stands dismissed.

No costs.

23.09.2022

Internet: Yes/No
dhk

M.DHANDAPANI, J.



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