



W.P.No.24791 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.24791 of 2022

And

W.M.P.No.23724 of 2022

P.Radhakrishnan

... Petitioner

Vs.

1.The Sub Collector,
Virudhachalam,
Cuddalore District.

2.The Tahsildar,
Virudhachalam Taluk,
Virudhachalam,
Cuddalore District.

3.The Commissioner,
Virudhachalam Municipality,
Virudhachalam,
Cuddalore District.

4.The Taluk Surveyor,
O/o.Taluk Office,
Virudhachalam,
Cuddalore District.

5.Rajendran

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to



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issue a Writ of Mandamus forbearing the respondents 1 to 4 from measuring the properties mentioned in the Suit Schedule Properties in O.S.No.2 of 2006 on the file of the Additional District Court / FTC-III, Virudhachalam, Cuddalore District in A – Schedule Mentioned properties in S.Nos.51/2A2, 51/2C2, 101/2B, 42/1, 108/1, 49/3A2, 103/1, 87/1, 103/2, 51/1, 51/2C2, 52/6B, 53/3, 53/5B, 42/3, 44/2, 48/4, 44/1, 40/3, 48/1, 48/3, 109/1A, 192/2A, 44/3, 87/1, 87/1, 109/2A, 51/2A1, 51/2C1, Poonthottam Village, Virudhachalam Taluk, Cuddalore District and Vacant Site in R.S.No.29/11, Savadikuppam Village, Virudhachalam Taluk, Cuddalore District and S.Nos.144/3A, 144/6A, 143/6, 136/1B, 180/2, 180/4B, 180/4A, 147/9B, 294/2 and 294/6, Ogalur Village, Kunnam Taluk, Perambalur District and S.Nos.55/5, 55/B, Boothamur Village, Virudhachalam Taluk, Cuddalore District and S.No.101/2, Poonthottam Village, Virudhachalam Taluk, Cuddalore District and C – Schedule Mentioned Properties in S.No.102/2A, Poonthottam Village, Virudhachalam Taluk, Cuddalore District, till the disposal of the above First Appeal in A.S.No.452 of 2011 on the file of the Hon'ble High Court, Madras.

For Petitioner : Mr.C.Prakasam
For Respondents : Mr.T.K.Saravanan for R1 to R4
Government Advocate
Mr.N.Ramesh for R5



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ORDER

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The petitioner has filed this writ petition seeking issuance of Writ of Mandamus forbearing the respondents 1 to 4 from measuring the properties mentioned in the Suit Schedule Properties in O.S.No.2 of 2006 on the file of the Additional District Court / FTC-III, Virudhachalam, Cuddalore District in A – Schedule Mentioned properties in S.Nos.51/2A2, 51/2C2, 101/2B, 42/1, 108/1, 49/3A2, 103/1, 87/1, 103/2, 51/1, 51/2C2, 52/6B, 53/3, 53/5B, 42/3, 44/2, 48/4, 44/1, 40/3, 48/1, 48/3, 109/1A, 192/2A, 44/3, 87/1, 87/1, 109/2A, 51/2A1, 51/2C1, Poonthottam Village, Virudhachalam Taluk, Cuddalore District and Vacant Site in R.S.No.29/11, Savadikuppam Village, Virudhachalam Taluk, Cuddalore District and S.Nos.144/3A, 144/6A, 143/6, 136/1B, 180/2, 180/4B, 180/4A, 147/9B, 294/2 and 294/6, Ogalur Village, Kunnam Taluk, Perambalur District and S.Nos.55/5, 55/B, Boothamur Village, Virudhachalam Taluk, Cuddalore District and S.No.101/2, Poonthottam Village, Virudhachalam Taluk, Cuddalore District and C – Schedule Mentioned Properties in S.No.102/2A, Poonthottam Village, Virudhachalam Taluk, Cuddalore District, till the disposal of the above First Appeal in A.S.No.452 of 2011 on the file of the Hon'ble High Court, Madras.



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2.The learned counsel appearing for the petitioner submitted that the petitioner and fifth respondent are brothers and since the fifth respondent did not properly tender the accounts of income derived from the properties, the petitioner filed suit for partition in O.S.No.2 of 2006 on the file of the Additional District Court / FTC-III, Virudhachalam, Cuddalore District and the said suit was decreed in favour of the petitioner on 30.08.2011, as per which, the petitioner is entitled for ½ share in the Schedule A and B of the suit properties. Challenging the same, the fifth respondent filed A.S.No.452 of 2011 before this Court and obtained an order of interim stay and the said first appeal is pending before this Court.

3.The learned counsel appearing for the petitioner further submitted that the fifth respondent filed two suits before the Additional District Court / FTC-III, Virudhachalam, Cuddalore District and the said suits were dismissed and challenging the same, the fifth respondent has filed A.S.Nos.454 and 455 of 2011 before this Court and the said first appeals are also pending before this Court. While such being the position, the fifth respondent is now taking effective steps to measure and erect fencing and put boundary stone in and



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around the entire properties and in this regard, has made representation to the respondents. Aggrieved by the same, the petitioner has filed this writ petition.

4.The learned counsel appearing for the fifth respondent submitted that, till date, the fifth respondent has not made any representation for measuring the properties. However, this Court may dispose of this writ petition by granting liberty to the petitioner as well as the fifth respondent for filing appropriate application before this Court in the pending first appeals.

5.In view of the above, this writ petition is disposed of by granting liberty to the petitioner as well as the fifth respondent for filing appropriate application before this Court in the pending first appeals. No costs. Consequently, the connected miscellaneous petition is also closed.

13.10.2022

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No



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M.DHANDAPANI,J.
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To

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