



W.P.No.31773 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2022

CORAM:

THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

W.P.No.31773 of 2022

S.Ilayaperumal

. . . Petitioner

Vs.

1. The District Collector,
Kallakurichi District,
Kallakurichi.
2. The Tahsildar,
Chinnasalem Taluk,
Chinnasalem,
Kallakurichi District.
3. The Revenue Divisional Officer
Chinnasalem Taluk Office
Kallakurichi District.
4. The Surveyor,
Chinnasalem Taluk Office,
Kallakurichi District.
5. The Village Administrative Officer,
Chinnasalem North,
Chinnasalem.



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6. The Assistant Director, (Office of District Collector)
Land Survey Department,
Kallakurichi District.

7. K.P.S.Senthil

8. M.Murugan

. . . Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents 1 to 6 to consider the petitioner's representation dated 14.09.2022 and to dispose the same in a stipulated time framed by this Court.

For Petitioner : M/s.K.Thenrajan

For Respondents : Mr.U.Baranidharan,
Additional Government Pleader

ORDER

The present petition has been filed seeking a direction to respondents 1 to 6 to consider the petitioner's representation dated 14.09.2022 and dispose the same within the time that may be stipulated by this Court.

2. It is the case of the petitioner that originally the subject property was purchased by his father namely Mr.Sengamala konar and accordingly,



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patta was transferred in his name and he is in possession of the said property since the date of purchase. However, the respondents 7 & 8 are attempting to grab the above said property by creating certain forged documents, due to which, suit in O.S.No.732 of 2020 on the file of the District Munsif Court, Kallakurichi filed for injunction and declaration, however, the same is pending consideration. However, the 7th respondent had filed a Writ Petition in W.P.No.7909 of 2021 seeking a direction to the respondents to survey the above said property, wherein, respondents were allowed to survey the property after issuing notice to the petitioner, however, without issuing any notice to the petitioner or his family members, respondents are attempting to survey the petitioner's property. Being aggrieved by the above act of the respondents and in view of the pendency of the suit in O.S.No.732 of 2020 on the file of the District Munsif Court, Kallakurichi filed for injunction and declaration, the petitioner made an objection vide representation dated 14.09.2022 for survey of the property. However, till date, the same has not been considered. Hence, the present petition has been filed.



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3. Though very many grounds have been raised, however, learned counsel for the petitioner submits that it would suffice if this Court issues a direction to the respondents to consider the representation dated 14.09.2022 made by the petitioner objecting to survey the property, citing the pendency of the suit, within the time that may be stipulated by this Court.

4. Learned Additional Government Pleader appearing for the respondents submits that the act of the respondents is only in pursuance of the order passed and if at all the petitioner has any grievance, the proper course open to the petitioner is to challenge the said order and trying to stall the implementation of the order dated 26.03.2021 passed in W.P.No.7909 of 2021 is per se contemptuous.

5. It is borne out by the materials available on record that a suit has been filed with regard to the subject property. However, the fact remains that an order for survey has been passed by this Court in W.P. No.7909 of 2021 in which this Court had directed survey of the property, after affording opportunity to the petitioner herein and the other respondents. Therefore,



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trying to stall the implementation of the said direction is *per se* contemptuous. However, it is to be pointed out that non-affording an opportunity to the petitioner before survey is also contemptuous. That being the case, it is the duty of the petitioner as well as the respondents to scrupulously obey the directions issued by this Court in W.P. No.7909 of 2021

6. Therefore, this Court is inclined to direct the respondents to implement the directions issued by this Court in W.P.No.7909 of 2021 for survey of the subject property, and before the said act is undertaken, necessarily the petitioner and the private respondents shall be afforded an opportunity of personal hearing. Needless to mention that the petitioner and the private respondents shall cooperate with the official respondents for the survey of the property. The said exercise shall be undertaken and completed within a period of twelve weeks from the date of receipt of a copy of this order. It is further made clear that mere surveying of the property would in no way grant any title to the respective parties and the title to the respective parties would be subject to the outcome of the suit in O.S.No.732 of 2020



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Liberty is granted to the petitioner and the private respondents to canvass all their grievances before the civil court in the aforesaid suit.

7. Accordingly, this Writ Petition is disposed of with the aforesaid direction. No Costs.

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NHS

Index : Yes / No

Internet : Yes / No



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WEB COPY

To

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M.DHANDAPANI, J.

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