



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 14.10.2022

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.1283 of 2021

Udaya Thavar

..Petitioner

Vs

- 1.The Tahsildar,
Kalayarkovil Taluk,
Sivagangai District.
- 2.The Taluk Head Surveyor,
Land Survey Department,
Kalayarkovil Taluk,
Sivagangai District.
- 3.The Inspector of Police,
Kalayarkovil Police Station,
Sivagangai District.
- 4.Sasivarnam
- 5.Senthilkumar
- 6.Kannan
- 7.Selvi

..Respondents.

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the first respondent to consider the Petitioner's representation dated 18.09.2020 to measure the Petitioner's land bearing S.No.242/2, admeasuring about 5 acres situated at Vannikudi Village Group, Kalayarkovil Taluk, Sivagangai



District with the assistance of the third respondent and identify the four boundaries in the said land.

For Petitioner : Mr.V.Kannan

For Respondents : Mr.N.Ramesh Arumugam
1 and 2 Government Advocate

For Respondent-3 : Mr.B.Thanga Aravindh
Govt.Advocate(Crl.Side)

For Respondents : Mr.S.Pugalendhi
4 to 7

ORDER

This Writ Petition is filed seeking issuance of a Writ of Mandamus directing the first respondent to consider the Petitioner's representation dated 18.09.2020 to measure the Petitioner's land bearing S.No.242/2, admeasuring about 5 acres situated at Vannikudi Village Group, Kalayarkovil Taluk, Sivagangai District with the assistance of the third respondent and identify the four boundaries in the said land.

2.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3.The Petitioner's family owns a piece of land bearing S.No.242/2, admeasuring about 5 acres situated at Vannikudi Village Group, Kalayarkovil Taluk, Sivagangai District, which is a joint family property enjoyed by the Petitioner as well as his family members.The respondents



4 to 7 are the residents of Paraikulam and they have encroached the said land to the extent of 50 cents citing bogus claims, moreover, the fifth respondent, who is the village Assistant of Kurandani Variyenthal Village has also exercised his influence upon the Government Authorities to the encroachment made by the respondents 4 to 7. Whiles, the Petitioner has submitted an application on 20.7.2020, paying prescribed fees, seeking to measure the above said land and to demarcate the same. The respondents 1 and 2 on 28.7.2020 take steps to measure the said land, but the same was prevented by the respondents 4 to 7 by threatening them. The fifth respondent has also stopped the same by using his influence. Hence the Petitioner has lodged a complaint on 8.8.2020 with the third respondent Police regarding the same. Once again, the Petitioner has submitted an application for measurement and demarcation on 18.09.2020 by paying a fee of Rs.1600/-. But the respondents 1 and 2 refused to visit the Petitioner's land stating that threats received from the respondents 4 to 7 and also the fifth respondent. On 27.11.2020 the Deputy Tahsildar attached to the first respondent Office sent a letter informing the Petitioner that the fourth respondent filed a caveat in C.P.No.27 of 2020, on the file of the District Munsif Court, Sivagangai and hence the first respondent was unable to measure his land and the same was recorded in his proceedings, dated 27.11.2020. Since no action has been taken by the respondents 1 and 2, the Petitioner has filed the above

Writ Petition for the relief stated supra.



4.The learned Government Advocate appearing for the first respondent would submit that they are ready and willing to measure the property in question based on the Petitioner's representation and the respondents 4 to 7 prevented them from measuring the property and hence they are not in a position to measure the property and they can do the said exercise when police protection was sought for.

5.The learned counsel for the petitioner would submit that there is some allegation of threat, for which, he has given application to the third respondent which is under investigation and the same is closed on the ground that the complainant did not give statement.

6.The learned counsel appearing for the respondents 4 to 7 would submit that they are intending to file a suit to establish their rights.The Petitioner and respondents 4 to 7 are pangaligal and their grand-father namely, Sonaimuthu is in possession of the above said property, who is having four sons namely, Kathamuthu, Nagalingam, Chellam and Kasilingam and the respondents 5 to 7 are the legal heirs of Chellam and the Petitioner is the legal heir of Nagalingam.The Petitioner is creating false documents and delete the name of the father of the respondents 4 to 7 from the patta and as of now, the respondents 4 to 7 are cultivating the above said land.



7. In view of the above, the first respondent is directed to consider the claim of the Petitioner for measurement and demarcation based on his representation, dated 18.09.2020 with the revenue documents produced by the Petitioner and pass appropriate orders on merits and in accordance with law, after affording an opportunity of hearing to all the parties concerned, with the help of the third respondent Police, if needed, within a period of 12 weeks from the date of receipt of a copy of this order.

8. The respondents 4 to 7 shall establish their rights by approaching the competent civil forum, for necessary relief, in the manner known to law and since no suit is filed as of now, no orders can be passed in respect of them

9. With the above observation and direction, the Writ Petition stands disposed of. No costs.

14.10.2022

Index : Yes/No

Internet: Yes/No

vsn

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V.BHAVANI SUBBAROYAN,J
vsn

ORDER MADE IN

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