

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.09.2022

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.1375 of 2021

Sulaikabeevi

... Petitioner

VS.

1.The Assistant Commissioner,
Thachanallur Zone,
Tirunelveli City Municipal Corporation,
Tirunelveli.

2.The Zonal Sub Inspector of Surveyor,
Thachanallur Zone,
Tirunelveli City Municipal Corporation,
Tirunelveli.

3. Ayyappan

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents herein to conduct survey, measure and fix boundaries of temple property comprised in AJ Block No.14, in Survey No.1097/3, Thachanallur Village, Tirunelveli, Tirunelveli District within a reasonable time.

For Petitioner : Mr.K.Esakki
For R1 & R2 : Mr.Aayiram K.Selvakumar
For R3 : No Appearance

ORDER

This Writ Petition is filed for issuance of a Writ of Mandamus, directing the respondents to conduct survey, measure and fix boundaries of temple property comprised in AJ Block No.14, in Survey No.1097/3, Thachanallur Village, Tirunelveli, Tirunelveli District.

2. The case of the petitioner is that Mr.I.Salavudeen is the power agent of Sulaikabeevi. The said Sulaikabeevi's husband Kadhar Sherif has purchased the property in S.No.1097/3, situated at Thachanallur Village, Tirunelveli District from one Ruthraniammal by way of sale deed in Document No.341 of 1963, dated 30.01.1963. The said Ruthraniammal has also sold the adjacent lands to different persons by way of sale deed. The purchaser of the said properties while constructing a house in the said land, there was a confusion to find out the four boundaries. Therefore, the petitioner's husband Kadhar Sherif, one

Govindaraj and Sathiyavadivu had filed a suit for partition before the District Munsif Court, Tirunelveli in O.S.No.685 of 1971, dated 08.08.1971 and the same has been decreed in favour of the said Kadhar Sheriff. Against the said order, the aggrieved party preferred an appeal in A.S.No.86 of 1973 before the Sub Judge, Tirunelveli and the same was dismissed on 29.03.1975 and confirmed the order passed in O.S.No.685 of 1971. Subsequently, based on the Advocate Commissioner's Report in I.A.No.231 of 1976 in O.S.No.685 of 1971, dated 29.03.1976, final decree was also passed. As per the sketch submitted by the Advocate Commissioner, said Kadhar Sheriff was allotted Plot No.14 to the extent of 2400 Sq.ft. After the said decree, the petitioner's husband was in peaceful possession of the said property. The said Kadhar Sherif died on 17.02.1989. Thereafter, his legal heirs viz., Sulaikabeevi (wife) and his two daughters and three sons are enjoying the said property till date.

3. The petitioner has made a representation to the respondents herein to survey and fix the four boundaries of the said property. The petitioner has also remitted necessary fees to survey the property before

the first respondent Corporation, on 23.11.2020. After that, the second respondent has sent a communication dated 28.12.2020, to the petitioner as well as the third respondent herein that they would come to survey the property on 05.01.2021. But, they have not come on that day to survey the property of the petitioner. Hence, this writ petition.

4. The learned counsel appearing for the respondent Municipal Corporation submitted that there was an objection raised by the third respondent and hence, they could not conduct the survey.

5. It is seen from the documents produced that the petitioner's husband Kadhar Sherif has purchased the property from one Ruthraniammal and also obtained a decree in his favour. Based on the Advocate Commissioner's report, the said Kadhar Sheriff was allotted Plot No.14 to an extent of 2400 sq.ft. The Zonal Deputy Tahsildar, Tirunelveli District has issued a Certificate, Extract from the Town Survey Land Register, wherein it is stated that the said Kadhar Sherif, S/o.Akbar Sherif owns a land in AJ Block No.14, in Survey No.1097/3,

Thachanallur Village, Tirunelveli, Tirunelveli District. The legal heir certificate and the other documents were produced to show that the petitioner's husband is the owner of the land in AJ Block No.14.

6. Considering the facts and circumstances of the case, this Court directs the authorities concerned to proceed further, on the notice issued on 28.12.2020 to all the parties, and pass appropriate orders, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order, after providing an opportunity to the third respondent herein.

7. With the above directions, this Writ Petition is disposed of. No costs.

07.09.2022

Index: Yes/No

Internet: Yes/No

akv

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V.BHAVANI SUBBAROYAN,J.

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