



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 27.09.2022

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.1941 of 2020

P.Swapna

..Petitioner

Vs

1.The District Collector,
Theni District,
Theni.

2.The Tahsildar,
Uthamapalayam Taluk,
Uthamapalayam,
Theni District.

..Respondents.

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order in Na.Ka.No.7566/2019/8, dated 13.12.2019 passed by the second respondent and to quash the same and to direct the second respondent to conduct survey and to demarcate the boundaries of the Petitioner's land comprised in S.No. 872/1 and 873/1B in Thevaram Village, Uthamapalayam Taluk, Theni District.

For Petitioner :Mr.K.Guhan

For Respondents:Mr.A.Kannan
Addl.Govt.Pleader

**ORDER**

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The Petitioner has filed this Writ Petition seeking issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned order in Na.Ka.No.7566/2019/8, dated 13.12.2019 passed by the second respondent and to quash the same and to direct the second respondent to conduct survey and to demarcate the boundaries of the Petitioner's land comprised in S.No.872/1 and 873/1B in Thevaram Village, Uthamapalayam Taluk, Theni District.

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

3.The case of the Petitioner is that the Petitioner is having the property in S.No.872/1 measuring an extent of 4 acres and 85 cents of Punja lands and one Priyadarshini, who is the co-sister of the Petitioner is having property in S.No.873/1B measuring an extent of 1 acre and 33 cents of punja lands.The above said land in S.No.871/1 originally belonged to one C.Periyakaruppan @ Kalai, C.Veerannan @ Balu, C.Thoonga Thevan @ Uthayakumar, C.Gurunathan and their legal heirs have jointly executed a sale deed in Document No.1572 in favour of the Petitioner and the same was duly registered before the Sub-Registrar, Thevaram.The above said persons have also executed a sale deed in



Document No.1571 and the same was also registered at Sub-Registrar Office, Thevaram and they were in possession and enjoyment of the same. Thereafter, the Petitioner and her co-sister have applied for patta before the revenue authority and after enquiry, the second respondent issued patta in favour of them in Patta Nos.8575 and 8574 and they are also paying the kist to the Revenue Authority. On 5.10.2018, the Petitioner and her co-sister have submitted an application before the second respondent for survey of their land and to fix the boundaries of the said property and also paid Rs.300/- in this regard. The properties were surveyed in the month of September 2018 and at that time, one Selvi had objected for the land to be surveyed. Thereafter, the Petitioner filed an appeal before the second respondent and also paid a sum of Rs. 400/-. Accordingly, the Head Surveyor surveyed the property twice and this time also, the said selvi had objected for the survey. While so, the second respondent by order, dated 13.12.2019 in Na.Ka.No.7566/2019//S by stating that the aggrieved person has to approach the Court. Thereafter the Petitioner's father in law had filed a complaint before the Thevaram Police Station on 28.8.2018 and the police had issued receipt in Receipt No.303 of 2018. The adjacent land owner has accepted to remove the coconut trees, but, later on, had refused to remove the same. Now the Petitioner is ready to pay necessary charges to conduct the survey in her land. The second respondent without considering the legal aspects had passed the order impugned in the present Writ Petition on 13.12.2019.



Left with no other alternative, the Petitioner has filed the present Writ Petition for the relief stated surpa.

4.It is seen from the Petition as well as the document that the Petitioner is the owner of the above said property, who had purchased the property and the patta also stands in her name. Thereafter she sought for measurement of the said land. When the revenue officials measured the property, there was objection from one Selvi, who is said to be in possession of the said land. According to Selvi, they have been in possession and enjoyment of the land, which is in dispute and they did not allow the authorities to proceed further. But according to the Petitioner as well as the Department Officials/Tahsildar, it is seen that they have already measured the property twice and after the Petitioner approached the Police, the said Selvi, wife of Sivanandi @ Balraj agreed for the measurement. Again it was measured and later on, they have not agreed for the same. In these circumstances, the second respondent has passed the order impugned herein on 13.12.2019 stating that when there is objection regarding their possession of the said land, the authorities could not measure the property and it is purely a civil dispute and it is for the Petitioner to go before the competent Civil Court to declare their right and title over the property in question. The revenue officials shall not decide the aspect that who is in possession and who is having right and title to the property. According to the Petitioner, she is the owner of the



property, however, one Selvi, wife of Sivanandi @ Balraj had objected for the same. These aspects cannot be decided by the revenue officials and they cannot declare the title to the property. Hence it is made clear by the revenue officials that the petitioner has to approach the competent Civil Court for declaring the right and title over the suit property by making the opposite party as party to the lis. The Petitioner cannot seek for measurement for the third time and it is a futile exercise by the revenue officials. Hence this Court is not inclined to entertain the present Writ Petition and the same is liable to be dismissed.

5. For the aforesaid reasons, the Writ Petition stands dismissed. No costs. However, it is left open to the Petitioner to approach the competent Civil Forum to establish her right and title over the property in question, which she had already purchased, in the manner known to law, if so advised.

27.09.2022

Index : Yes/No

Internet: Yes/No

vsn

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V.BHAVANI SUBBAROYAN,J
vsn

ORDER MADE IN

W.P(MD)No.1741 of 2020

27.09.2022



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