



W.P.(MD)No.2252 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.06.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.2252 of 2022

S.Balasubramaniyan

... Petitioner

Vs.

- 1.The Superintendent of Police,
Thanjavur District.
- 2.The Deputy Superintendent of Police,
Vallam,
Thanjavur District.
- 3.The Tahsildar,
Thanjavur Taluk,
Thanjavur District.
- 4.The Sub Inspector of Police,
Vallam Police Station,
Thanjavur District.
- 5.S.Thangam
- 6.Janab.Habibunisha
- 7.Janab.A.Mumthaj Begam
- 8.Janab.Rajmad Nisha
- 9.Mahammed Raffic



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10.Basheer Agmath

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the third respondent to survey and subdivide the land comprised in Plot Nos.14, 15, 16 and 21, Patta No.600 in Old Survey No.102B/1 and in New Survey No.102B/1A and quaid-de-Millath Nagar, Valla South Sethi Village, Thanjavur Taluk, Vallam Sub Registration District, Thanjavur Registration District as per the Tamil Nadu Survey and Boundaries Act, 1923, on the basis of the petitioner's representation dated 07.01.2022 and further more direct the respondent Nos.1, 2 & 4 to give police protection, while surveying the lands on the basis of the petitioner's representation dated 28.09.2021 within the stipulated time fixed by this Court.

For Petitioner	: Mr.R.Rajaraman
For R1 to R4	: Mr.N.Ramesh Arumugam Government Advocate
For R5 to R7 R9 & R10	: Mr.N.Tamil Mani
For R8	: Mr.B.Prahalad Ravi

ORDER

Heard the learned counsel on either side.



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2. The petitioner wants the petition mentioned lands to be surveyed and sub-divided. The petitioner's request is strongly contested by the learned counsel appearing for the private respondents.

3. The case of the petitioner is that his wife Anbu entered into a sale agreement with the power agent of one C.Balasubramaniyan on 18.07.2008. Since the power agent did not come forward to execute the sale deed, she filed O.S.No.304 of 2010 for the relief of specific performance. The suit was decreed. A.S.No.57 of 2011 was filed by the defendants. Though a compromise was arrived at between the parties, it was not given effect to. The power agent had withdrawn the sale consideration of Rs.7,95,000/- deposited by the plaintiff.

4. In these circumstances, according to the petitioner's wife, the decree got revived and became capable of execution. But the Executing Court dismissed E.P.No.22 of 2014. Challenging the same, the petitioner's wife filed C.R.P.(MD)No.2356 of 2015. Vide order dated 20.12.2016, it was allowed and the Court directed the execution of the sale deed in favour of the petitioner's wife. The sale deed was also



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executed in favour of Anbu on 03.04.2017 by the jurisdictional Sub Court. Thus, according to the petitioner, he is not only armed with the civil court decree but also the sale deed executed by the Court itself and therefore, his request for survey and sub-division ought to be accepted.

5. The learned counsel appearing for the private respondents states that the petitioner is not a party to the C.R.P proceedings. According to them, they purchased the properties in question from the power agent in the year 2013. After they became aware of the subsequent development, they filed O.S.Nos. 240 of 2017 and 337 of 2017 before the District Munsif Court, Thanjavur challenging the decree passed in favour of the petitioner's wife. The petitioner's wife had entered appearance and it is still pending. According to them, after entering appearance in the suit, she executed the settlement deed in favour of the petitioner.

6. I am clearly of the view that the civil suit is actively pending between the petitioner on the one hand and the private respondents on the other. Therefore, it would not be appropriate to direct the third respondent to survey and sub-divide the property in question. The



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parties will have to necessarily abide by the outcome of the pending civil proceedings. Leaving open the rights of the parties, the writ petition is dismissed. No costs.

30.06.2022

Index : Yes / No
Internet : Yes/ No
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