



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.04.2022

CORAM

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.8434 of 2021

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R.Murugan

... Petitioner

vs.

1.The Tahsildar,
Srivilliputhur Taluk, Virudhunagar District.

2.The Head Surveyor,
Srivilliputhur Taluk, Virudhunagar District.

3.Chinnamuthiah

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondents 1 and 2 herein to survey the property of the petitioner in S.Nos.221/3C, 221/3B, 221/4A, 221/4B and 221/2 in Poovani Village, Srivilliputhur Taluk Virudhunagar District to the extent of 5½ Cents in Survey No.221/1C, 5½ Cents in Survey No.221/3B, 20 cents in Survey Survey No.221/4A, 14 Cents in Survey No.221/4B and 37 Cents in Survey No. 221/2 under the issuance of Sale Certificate dated 16.08.2019 in Registered Document No.1911/2020 on the file of the Sub Registrar, Srivilliputhur, Virudhunagar District with reference to the Document of title, patta and the Field Map and demarcate the four boundaries by planting survey stones.

For Petitioner	:Mrs.S.Mahalakshmi
For R1 and R2	:Mr.D.Sasikumar
	Additional Government Pleader
For R3	:Mr.S.I.Muthiah

O R D E R

This Writ Petition has been filed for a Mandamus seeking for a direction to the respondents 1 and 2 herein to survey the property of the petitioner in S.No.221/3C measuring to an extent of 5½ cents, 221/3B measuring to an extent of 5½ cents, 221/4A measuring to an extent of 20 cents, 221/4B measuring to an extent of 14 cents and 221/2 measuring to an extent of 37 cents in Poovani Village, Srivilliputhur Taluk Virudhunagar District.

2.According to the petitioner, he became the absolute owner of the aforementioned properties based upon a sale certificate, dated 16.08.2019 issued under SARFAESI proceedings. It is also the contention of the petitioner that since there is a boundary dispute



in respect of S.No.221/4B, measuring to an extent of 14 cents, there is a necessity for survey. The petitioner has given a representation to the official respondents to conduct survey on 14.09.2020 and necessary charges have also been paid. Since the said representation has not been considered till date, the petitioner has filed this Writ Petition.

3.A counter affidavit has been filed by the third respondent, who has also filed a suit against the petitioner and others, which is the subject matter of O.S.No.3 of 2021 on the file of the Principal Subordinate Court, Srivilliputhur. The third respondent has sought for a declarative decree in the said suit based on adverse possession.

4.According to him, a similar relief was also sought for in a Writ Petition filed by him in W.P.(MD)No.4248 of 2021. However, in view of the pendency of the aforesaid civil suit, the said Writ Petition came to be dismissed on 04.03.2021. According to the third respondent, when a civil suit is pending with regard to the very same property, no survey and demarcation can be done. Hence, according to the third respondent, this Writ Petition will have to be dismissed.

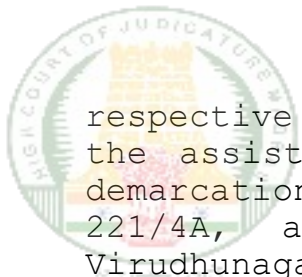
5.Heard Mrs.S.Mahalakshmi, learned Counsel for the petitioner, Mr.D.Sasikumar, learned Additional Government Pleader appearing for R1 and R2 and Mr.S.I.Muthiah, learned Counsel for the third respondent.

6.Admittedly, the present dispute involves only in respect of S.No.221/4B Poovani Village, Srivilliputhur Taluk, Virudhunagar District measuring to an extent of 14 cents. Apart from this property, the petitioner has purchased other properties comprised in S.Nos.221/3C, 221/3B, 221/4A, and 221/2 in Poovani Village, Srivilliputhur Taluk Virudhunagar District, under a sale certificate, dated 16.08.2019 issued under SARFASI proceedings, which are not in dispute.

7.The learned Counsel for the third respondent vehemently opposes only demarcation of boundaries in respect of S.No.221/4B alone. Insofar as survey of the survey of the properties is concerned, he has not raised any serious objection.

8.The learned Counsel for the petitioner, on instructions, would submit that the petitioner will be satisfied, if survey is done insofar as S.No.221/4B is concerned and in respect of other survey numbers, which were purchased by the petitioner under the sale certificate, survey and demarcation can be done. For this suggestion, the learned Counsel for the third respondent has not raised any serious objection.

<https://hcservices.courtservice.in> According to the submissions made by the learned



respective Counsels, this Court directs the first respondent, with the assistance of the second respondent, to conduct survey and demarcation of boundaries in respect of S.Nos.221/3C, 221/3B, 221/4A, and 221/2 in Poovani Village, Srivilliputhur Taluk Virudhunagar District, in the presence of the petitioner and after issuing notice to the petitioner and other necessary parties, whom the first respondent deems fit to enquire. Insofar as S.No.221/4B measuring 14 cents at Poovani Village, Srivilliputhur Taluk Virudhunagar District, which is the subject matter of O.S.No.3 of 2021 on the file of the Principal Subordinate Court, Srivilliputhur, is concerned, the first respondent shall only survey the property and shall not demarcate the boundaries for the same and survey shall be done after giving notice to the petitioner as well as the third respondent and any other necessary party, whom the first respondent deems fit to enquire.

10.It is made clear that survey done pursuant to the direction given by this Court today shall be subject to the outcome of the civil suit in O.S.No.3 of 2021 on the file of the Principal Subordinate Court, Srivilliputhur. The first respondent is directed to complete the aforesaid exercise within a period of eight weeks from the date of receipt of a copy of this order.

11.With the aforesaid directions, this Writ Petition is disposed. No costs.

Sd/-

Assistant Registrar (CS-III)

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/ /2022

Sub Assistant Registrar(CS)

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To

1.The Tahsildar,
Srivilliputhur Taluk, Virudhunagar District.

2.The Head Surveyor,
Srivilliputhur Taluk, Virudhunagar District.

+1 CC to M/s.SPL.GP (SR-16843[F] dated 06/04/2022)

+1 CC to M/s.S.I. MUTHIAH, Advocate (SR-16930[F] dated 06/04/2022)



W.P.(MD)No.8434 of 2021

+1 CC to M/s.S. MAHALAKSHMI, Advocate (SR-17280[F] dated 07/04/2022)

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