



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.[MD]No.8652 of 2022

and

W.M.P.[MD]No.6354 of 2022

WEB COPY

Suresh

... Petitioner

Vs.

1.The Tahsildar,
Aundipatti Taluk,
Theni District.

2.The Surveyor,
Aundipatti Taluk,
Theni District.

3.Punitha Raja

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the first and second respondents to consider and pass orders on the petitioner's representation seeking to not to survey the land in Survey Nos.650/2, 651, 652 & 653, Pulimankombai, Aundipatti Taluk, Theni District, within a period that may be stipulated by this Court.

For Petitioner : Mr.M.Jerin Mathew

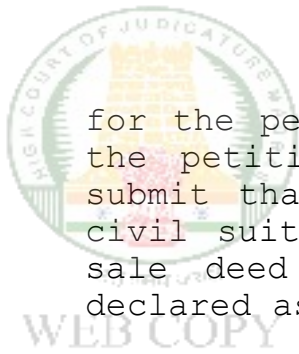
For Respondents 1&2 : Mr.B.Saravanan

Additional Government Pleader

ORDER

This writ petition has been filed for a Mandamus seeking for a direction to the first and second respondents to consider and pass orders on the petitioner's representation seeking to not to survey the land in Survey Nos.650/2, 651, 652 & 653, Pulimankombai, Aundipatti Taluk, Theni District, on the ground that a civil suit is pending and the rival claimant of the petitioner one Punitha Raja who is the third respondent herein does not have any right over the said property.

2.This Court by its order dated 16.03.2022 in a writ petition filed by the third respondent in W.P.[MD]No.4619 of 2022 directed the Tahsildar to survey and demarcate the boundaries in respect of the aforementioned property as it was claimed that the third respondent is the owner. The petitioner also claims ownership of the very same property. It is also admitted by the learned Counsel



for the petitioner that the survey is fixed on 06.05.2022 and that the petitioner has received notice from the Tahsildar. He would submit that survey cannot be done in view of the pendency of the civil suit where the petitioner has sought for declaration of the sale deed standing in the name of the third respondent to be declared as null and void.

3. Since the date of survey has already been fixed, the petitioner can raise all contentions that is raised in this writ petition before the Tahsildar and the surveyor who is going to survey and demarcate the boundaries on 06.05.2022. Admittedly, no orders have been passed in favour of the petitioner till date in the civil suit and the civil suit is pending.

4. No prejudice would be caused to any other parties if the survey and demarcation of boundaries is done in the presence of the petitioner and the third respondent as directed by this Court in its earlier order dated 16.03.2022. The interest of the petitioner has also been protected in the earlier order dated 16.03.2022, as only in his presence, survey was directed to be conducted by the Tahsildar with the assistance of the surveyor.

5. However, it is made clear that any survey and demarcation of boundaries is subject to the result of the suit filed by the petitioner on the file of the Sub-Judge, Theni, wherein the petitioner has sought to declare the sale deed standing in the name of the third respondent as null and void and also for partition.

6. The first and second respondents are directed to give sufficient opportunity to the petitioner to put forward his contentions during the course of survey that is scheduled to take place on 06.05.2022.

7. With the above direction, this Writ Petition stands disposed of. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Crl Side)

// True Copy //

05/05/2022

Sub Assistant Registrar (CS)

MR



To

1.The Tahsildar,
Aundipatti Taluk,
Theni District.

2.The Surveyor,
Aundipatti Taluk,
Theni District.

+1 CC to M/s.M. JERIN MATHEW, Advocate (SR-22541[F] dated
29/04/2022)

+1 CC to M/s.SPL.GP (SR-23311[F] dated 04/05/2022)

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29.04.2022

MGJ(05.05.2022) 3P 5C