



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **27.05.2022**

CORAM:

THE HONOURABLE MR.JUSTICE **R.SURESH KUMAR**

W.P. (MD) No.10428 of 2022

and

W.M.P (MD) Nos.7485, 7487 and 7488 of 2022

Siva Nedunzhelian

... Petitioner

vs.

1.The District Collector,
Office of the District Collector,
Trichy District.

2.The District Revenue Officer,
Office of the District Revenue Officer,
Trichy District.

3.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Trichy District.

4.The Tahsildar,
Trichy East Taluk Office,
Trichy.

5.The Town Surveyor,
Trichy East Taluk Office,
Trichy.

6.The Principal,
The Periyar EVR Government College,
Kajamalai, Trichy-23.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records pertaining to the impugned notice issued by the 2nd respondent in Na.Ka.No.A6/3614/2022, dated 17.05.2022 and quash the same.

For Petitioner : Mr.B.Jameel Arasu

For Respondents : Mr.M.Senthil Ayyanar
Government Advocate

**ORDER**

The prayer sought for herein is for a Writ of Certiorari, challenging the notice dated 17.05.2022 issued by the 2nd respondent.

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2.The petitioner claimed to be the owner of the property at Old Survey No.115/2 and the present Survey No.115/2/2 at Kottapattu Village, Trichy Taluk and District. The said property was originally belonged to one Udhayakumar, from whom the petitioner claimed to have purchased the same by way of valid sale consideration through registered sale deed of the month of April, 2022. Pursuant to which, after taking possession of the land, he has applied for getting patta.

3.However, in the meanwhile, the Revenue Department i.e., District Revenue Officer, the second respondent herein had issued a notice on 02.05.2022, directing the petitioner and other neighbours to attend for an enquiry on the complaint given by the 6th respondent as to the nuisance created as number of livestock are allowed inside the 6th respondent's college campus.

4.Pursuant to the said notice, the petitioner and other neighbours attended for the enquiry and thereafter, no action was taken. However, according to the learned counsel for the petitioner, suddenly, on 17.05.2022, the second respondent has issued another notice, under which a different subject has been mentioned as if that the 6th respondent had given a representation to make corrections in the Town Survey Land Register (hereinafter referred to as 'TSLR') and therefore, in order to decide the same, an enquiry has to be conducted, for which summon was issued through the impugned communication dated 17.05.2022 to the petitioner and others to appear before the second respondent on 23.05.2022. Aggrieved by the same, the petitioner has moved the present Writ Petition with the aforesaid prayer.

5.Heard the learned counsel for the petitioner, who would submit that, the vendor of the petitioner and other joint owners of the property had already approached the Civil Court by filing a Civil Suit in O.S.No.683 of 2010 before the II Additional District Munsif Court, Trichy, seeking for declaratory decree with consequential injunction and the said suit was decreed by an judgment and decree dated 16.09.2016. When that being so, the property in question belonged to the petitioner, since has been purchased from the original owner, in whose favour declaratory decree has already been issued by the competent Civil Court, cannot be subjected to any corrections of TSLR. Therefore, on that purpose, since summon has been issued, which is impugned herein the



same has to be interfered with, which cannot be permitted to go on, he contended.

6. However, the learned Government Advocate appearing for the respondents has produced a village map or field map, where according to the learned Government Advocate, apart from the patta land belongs to the petitioner, for which declaratory decree has already been given by the Civil Court, the petitioner and other neighbours, who are the owners of the patta land, seem to have encroached upon some portions of the property, which belongs to the 6th respondent college. Therefore, only based on the said alleged encroachment, to remove the same and correct the TSLR, an application / representation has been given by the 6th respondent and in order to enquire the same, such summon, which is impugned herein, has been issued on 17.05.2022. However, the petitioner did not appear. Therefore, let him appear before the District Revenue Officer and put forth his case, including what are all the documents available with him, including the declaratory decree. Based on which, the Revenue Department will take a decision, after measuring the disputed land by the Taluk / District Surveyor. That will be a permanent solution for both the petitioner and the 6th respondent. Hence, such a move now made by the Revenue Department cannot be thwarted by the present attempt made by the petitioner by filing this Writ Petition.

7. I have considered the said rival submissions made by the learned counsel appearing for both parties and have perused the materials placed before this Court.

8. As has been stated by the learned counsel for the petitioner, the vendor of the petitioner has already approached the Civil Court and got a declaratory decree in the year 2016, where Survey No.115/2, now has been subdivided into Survey No.115/2/2, has been mentioned, which is a property of the petitioner, which he recently purchased in the month of April, 2022. If that being the position, there could be no further evidence required for the Revenue people to come to the conclusion that the property in question belongs to the petitioner. However, if at all any encroachment is made either by the petitioner or any other owner or neighbour adjacent to the property of the 6th respondent college, suitable action can be taken to remove such encroachments by the Revenue Department for which they are entitled.

9. Therefore, for the limited purpose of identifying any encroachment, if at all made by the petitioner or any other owner or neighbour adjacent to the property of the 6th respondent college, an enquiry can go on, for which the petitioner shall give co-operation by appearing before the concerned District Revenue Officer on the



notice to be issued by him. On receipt of such notice, the petitioner shall appear as indicated above. Thereafter, a final decision shall be taken by the concerned District Revenue Officer.

10. It is made clear that insofar as the patta land, for which the declaratory decree has already been made by the Civil Court in Survey No.115/2, is concerned, there cannot be any quarrel. As that issue has already been concluded by the Civil Court, the Revenue Department has to necessarily lay the four boundaries through the Surveyor, which will not be precluded. If at all any encroachment is identified by the Revenue Department, that can be set right by issuance of any such proceedings.

11. With these observations and directions, this Writ Petition is disposed of. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Vacation Officer/
Assistant Registrar(AS)

// True Copy //

28/05/2022

Sub Assistant Registrar(CS)

MYR / SM

To

1. The District Collector,
Office of the District Collector,
Trichy District.
2. The District Revenue Officer,
Office of the District Revenue Officer,
Trichy District.
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Trichy East Taluk Office,
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6.The Principal,
The Periyar EVR Government College,
Kajamalai, Trichy-23.

Order made in
W.P.(MD) No.10428 of 2022
Dated:27.05.2022

nsn(CO)
TR(28.05.2022) 5P 7C