



W.P.(MD).No.18351 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.09.2022

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.18351 of 2022

and

W.M.P(MD) No.13366 of 2022

Jalal Jamal Jummah Mosque
Represented by its President,
Haji Mohammed Meerasa
Periyapattinam,
Ramanathapuram District.

... Petitioner

vs.

1. The District Collector,
Ramanathapuram District,
Ramanathapuram.
2. The Tahsildar,
Keelakkarai Taluk,
Ramanathapuram District.
3. The Director of Public Health &
Preventive of Medicine,
DMS, Annasalai,
Teynampet, Chennai.



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4. The Deputy Director of Health Services,
Ramanathapuram District.

5. The Block Health Supervisor,
Uthirakosamangai Block,
Ramanathapuram District.

6. The Medical Officer,
Primary Health Centre,
Periyapattinam,
Keelakkarai Taluk,
Ramanathapuram District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to conduct survey and demarcate the entire lands to an extent of 10 acres 58 cents comprised in S.No.72, Periyapattinam Village, Keelakkarai Taluk, Ramanathapuram District and fix the boundary stones in the petitioner's land consist the extent of 2 acre 58 cents, as per the Document No. 885/1979, dated 20.03.1979 within the time frame as may be fixed by this Court, based on the representation of the petitioner, dated 14.07.2022.

For Petitioner : Mr.A.Mohan

For Respondents : Mr.D.Gandhiraj
Special Government Pleader



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ORDER

This Writ Petition has been filed for issuance of a Writ of Mandamus, directing the respondents to conduct survey and demarcate the entire lands to an extent of 10 acres 58 cents comprised in S.No.72, Periyapattinam Village, Keelakkarai Taluk, Ramanathapuram District and fix the boundary stones in the petitioner's land consist the extent of 2 acre 58 cents, as per the Document No.885/1979, dated 20.03.1979, based on the representation of the petitioner dated 14.07.2022.

2. The case of the petitioner is that one Jappar and Seenii executed a registered gift deed on 26.05.1964 in favour of the petitioner Mosque to an extent of 5 acres and 58 cents. The office bearers of the petitioner Mosque had bequeathed a portion of the land to an extent of 3 acres in favour of the Government, for constructing hospital, by way of registered gift deed dated 20.03.1979, vide Document No.885/1979. Thereafter, the Government has constructed few buildings for the purpose of providing medical services to the needy people of Periyapattinam and surrounding area. The Health Department has proposed to construct a compound wall



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around the subject property which consisting 3 acres of land. In fact, the land which was given by the petitioner Mosque has been illegally occupied by the third parties, who have no title over the said property at any point of time. The Health Department did not take any action against the illegal occupation. Hence, the petitioner Mosque has given a representation to the respondents on 14.07.20922, to conduct a detailed survey in the subject property situated in S.No.72 to an extent of 10 acres and 58 cents. But the respondents have not considered the petitioner's representation till date. Hence, the petitioner has approached this Court seeking direction to the respondents to conduct survey and demarcate the entire lands to an extent of 10 acres and 58 cents in S.No.72 and fix the boundary stones in the petitioner's land, based on his representation, dated 14.07.2022.

3. The Tahsildar, Keelakarai Taluk, Ramanathapuram District, the second respondent herein has filed a counter stating that the petitioner Mosque gifted the land in S.No.72/2 to an extent of 3 acres to the Government for the purpose of constructing a Primary Health Centre



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catering to the medical needs of the inhabitants. Since there were some unauthorised encroachment in the above said land, survey and demarcation work was taken up on 26.08.2021, but unfortunately the work could not proceed in view of huge opposition. In the mean while, a criminal original petition in CrI.O.P.(MD).No.16554 of 2021 was filed. As ordered by this Court, dated 28.10.2021 and as ordered by the Revenue Divisional Officer, Ramanathapuram dated 09.12.2021, police protection was sought for to perambulate and fix the boundaries on 12.08.2022 and seven Surveyors and Divisional Inspector of Survey were deputed for this purpose. But the survey party was not permitted to survey the land and fearing eruption of communal issue affecting public peace and tranquility, the survey of the area was postponed.

4. The settlement under updating registry taken up between 1979 - 1984, total extent of 10.54 acres (4.68.5 hectares) of land comprising in S.No.72/2 as on date, on ground, the following mutation was made in the Taluk as well as in the village records and the details are as follows:



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Survey/ Sub Dn. No.	Classification	Extent in ares	Patta No. and name of the Registered Pattadar
72/2A1A	Ryot-dry	0.13.00	746.M.Saheed
72/2A1B	“	0.85.00	692.Jamaludeen Pallivasal
72/2A2	“	0.32.00	414.Fasul Hug
72/2B1	“	0.34.00	478.M.Mammd Pousia Beebu
72/B2	“	0.24.00	731.S.Hameedammal
72/B3	“	0.02.00	477 Mamd Abdul Kadar
72/2B4	“	0.02.00	384.A.Nazeer
72/2B5	“	0.02.00	731.S.Hamedammal Beevi
72/2B6	“	0.02.50	731.S.Hamedammal Beevi
72/2B7	“	0.02.50	7.S.Abdul Kadar
72/3	“	0.062.00	67.Govt. Hospital, Periya Pattinam
72/4	“	0.08.00	414.A.Fasool Hug
72/5	“	1.57.50	504.Chief Educational Officer, Ramanathapuram District.

5. Moreover, residential houses have been constructed in S.Nos. 72/2B3, 2B4, 2B5, 2B6, 2B7 and in S.No.72/2A1A and the petitioner Mosque on receiving HIBA from Jappar and Seeni ought to have taken steps to protect their properties and in view of the fact that the issue



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revolves around civil overtures, the petitioner Mosque has every legal right to institute a suit, get declaration and then file execution petition to remove the encroachment from their land. Further, the Revenue authorities have got no power to deal with these issues and the petitioner Mosque has to approach the competent civil Court.

6. This Court already directed the learned Special Government Pleader to get instructions regarding the said land, which has been gifted by the petitioner Mosque to the Government and the remaining land of the Mosque. According to him, 3 acres of land has been gifted to the Government and in S.No.72/1A2A, there is a Public Health Centre and that land will be measured to put up a compound wall. Regarding the rest of the land, the petitioner Mosque has to take steps to remove the encroachment by approaching the competent civil Court.

7. Considering the above said submissions, this Court is of the view that the encroachment is not in the land gifted to the Government for construction of hospital and the encroachment is only in the land



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belongs to the Mosque, but the petitioner Mosque submits that let the authorities measure the said lands to resolve the issue. Hence, the second respondent is directed to measure the lands and after measurement, if it is found that the said encroachment is in the Government land, it is left open to the Government to evict them, in accordance with law and if it is found that the encroachment is in the Mosque land, it is the duty of the petitioner Mosque to evict the private individuals, by following due process of law. The Superintendent of Police, Ramanathapuram District is directed to give suitable police protection for measuring the lands. The said exercise shall be completed by the second respondent within a period of three months from the date of receipt of a copy of this order.

8. With the above directions, this Writ Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

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Index: Yes/No
Internet: Yes/No
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