



W.P.(MD)No.18938 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 24.11.2022

CORAM

THE HONOURABLE Mrs. JUSTICE V.BHAVANI SUBBAROYAN

Writ Petition (MD) No.18938 of 2022

J.Satheesh Roche

.. Petitioner

Versus

1.The Tahsildar,
Tuticorin Taluk,
Tuticorin.

2.The Head Surveyor,
Tuticorin Taluk,
Tuticorin.

.. Respondents

Prayer:-Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the first respondent in Aa6/680/2021, dated 08.10.2021, quash the same and consequently, direct the respondents to survey the land in S.Nos.77/4B and 77/5B, to an extent 91 cents, situated at Mappilaiurani Village, Tuticorin Taluk, Tuticorin District, and if required, conduct an enquiry under Section 10(1) of the Act and pass appropriate order as per law, within the time frame to be stipulated by this Court.

For Petitioner : Mr.G.Mohan Kumar

For Respondents : Mr.A.Kannan
Additional Government Pleader



W.P.(MD)No.18938 of 2022

WEB COPY

ORDER

The petitioner has prayed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order passed by the first respondent in Aa6/680/2021, dated 08.10.2021, and consequently, direct the respondents to survey the land in S.Nos.77/4B and 77/5B, measuring an extent 91 cents, situated at Mappilaiurani Village, Tuticorin Taluk, Tuticorin District, and if required, conduct an enquiry under Section 10(1) of the Tamil Nadu Survey and Boundaries Act, 1923 [hereinafter referred to as " the Act"] and pass appropriate orders as per law, within the time frame to be stipulated by this Court.

2. According to the learned counsel for the petitioner, the first respondent has passed the impugned order without conducting any enquiry as contemplated under Section 10(1) of the Act and no notice of enquiry was issued to any person, including the petitioner and therefore, the learned counsel seeks to quash the impugned order and a direction to the respondents to re-survey the land in question.

3. According to the the learned Additional Government Pleader for the respondents, the Patta in respect of the land in S.Nos.77/4B and 77/5B stands in the names of one Joseph Roche, Rajesh Roche and Satheesh Roche, who is



W.P.(MD)No.18938 of 2022

the petitioner herein. Further, S.Nos.77/4A5, 5A5 and 3-B, which are on the western side of the petitioner's land, have been converted into house plots and there are 20 feet pathways, one on the north and the another on the middle, passing through the petitioner's land in S.No.77/5B and same have been used for the past 10 years. Further, in the said pathways, there are electric poles and therefore, the petitioner has to approach the competent civil court to redress his grievance.

4. Considering the aforesaid submissions made by the learned counsel on either side and also considering the fact that the first respondent has passed the impugned order without conducting any enquiry as contemplated under Section 10(1) of the Act, this Court is inclined to quash the impugned order passed by the first respondent, dated 08.10.2021. Accordingly, the same is quashed. The respondents are directed to conduct an enquiry by issuing notice to all the parties concerned and pass appropriate orders on the petitioner's application, dated 09.08.2021, within a period of 16 weeks from the date of receipt of a copy of this order.

5. Accordingly, this Writ Petition stands allowed. No costs.

Index : Yes/No

24.11.2022



W.P.(MD)No.18938 of 2022

To

1.The Tahsildar,
Tuticorin Taluk,
Tuticorin.

2.The Head Surveyor,
Tuticorin Taluk,
Tuticorin.



WEB COPY



W.P.(MD)No.18938 of 2022

V.BHAVANI SUBBAROYAN, J.

smn2

Order made in
W.P.(MD)No.18938 of 2022

24.11.2022