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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 16.09.2022

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.21991 of 2022

Madan

..Petitioner

Vs

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

2.The Tahsildar,
East Taluk Office,
Madurai District.

3.The Taluk Surveyor,
East Taluk Office,
Madurai District.

4.V.Moorthy

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents 2 and 3 to conduct a survey and demarcate the boundaries in respect of the Petitioner's property comprised in Old S.No.46/1., New S.No.120/26, measuring a total extent of 475.5 square feet, situated at Pudupatti village, Madurai District on the basis of the Petitioner's online Survey Application Chellan dated 24.05.2022.

For Petitioner :Mr.B.Jameel Arasu

For Respondents:Mr.N.Ramesh Arumugam
1 to 3 Government Advocate

**ORDER**

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The Petitioner has prayed for issuance of a Writ of Mandamus directing the respondents 2 and 3 to conduct a survey and demarcate the boundaries in respect of the Petitioner's property comprised in Old S.No.46/1., New S.No.120/26, measuring a total extent of 475.5 square feet, situated at Pudupatti village, Madurai District on the basis of the Petitioner's online Survey Application Chellan, dated 24.05.2022.

2.Mr.N.Ramesh Arumugam, learned Government Advocate takes notice for the respondents 1 to 3. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3.The case of the Petitioner is that the Petitioner's father namely, Sekar had executed a Settlement Deed on 3.7.2019 in favour of the Petitioner vide Document No.3619 of 2019 registered before the Sub-Registrar Office, Othakkadai in respect of the property comprised in Old S.No.45/1, New S.No.120/24, measuring a total extent of 745 square feet and New S.No.120/26, measuring a total extent of 475.5 square feet situated at Pudupatti Village, Madurai District. In order to protect the above said property by surveying and demarcating the boundaries, the Petitioner has submitted an application on 24.5.2022 along with necessary documents and also paid the requisite fees. In the meantime, the second respondent issued notice on 10.6.2022 directing the Petitioner



to be present for survey work by the revenue officials on 17.6.2022 and on that day, the respondents 2 and 3 could not survey the properties in question, without any reason. Hence the Petitioner gave a letter to the second respondent on 18.6.2022 stating the above facts, for which, the second respondent sent a letter to the Petitioner on 27.06.2022 informing that a suit in O.S.No.143 of 2022 has been filed on the file of District Munsif Court, Melur, Madurai District by the fourth respondent and an order of interim injunction was also granted and hence, he was not in a position to conduct the survey of the property. When the same was verified, the Petitioner came to know that the suit schedule properties and Petitioner's properties are different and the Petitioner has nothing to do with the said property and the order of injunction does not bind on the Petitioner. When the same was explained to the second respondent, he again sent notice dated 12.8.2022 directing the Petitioner to be present on 20.8.2022 and on that date also, they did not conduct the survey and left the place. Left with no other alternative, the Petitioner has filed this Writ Petition for the relief stated supra.

4.It is seen from the typed set of papers that the authorities concerned have received the above-said application and issued notice on 10.0.2022 directing the parties concerned to be present on 17.6.2022 for survey. As survey was not done on that day, the petitioner gave an application to the second respondent stating that when they are present,



the authorities came at 4.00 p.m. instead of 10.00 a.m and hence they could not measure the property, without any reason. Thereafter on the letter given by the Petitioner to the second respondent on 18.6.2022, the second respondent sent a letter to the Petitioner stating that he is not in a position to measure the property since a suit has been filed in O.S.No. 143 of 2022, on the file of the District Munsif Court, Melur and an order of interim injunction has been granted by the said Court. Again on 12.08.2022. the second respondent sent a notice directing the Petitioner to be present on 20.8.2022 and on that date also the second respondent could not conduct the survey the land. A perusal of the description property in the suit reveals that injunction was granted in respect of Old Survey Numbers 46/1-part and New S.No.120/23 and not for the Petitioner's survey number. The authorities cannot simply say that there is an order of interim injunction without verifying the documents. A perusal of the Petition in I.A.No.2 of 2022 in O.S.No.143 of 2022 reveals that the said petition has been filed by V.Moorthy and one K.Virumandi against one Madan and P.Sekar, in which interim order was passed and subsequently extended and lastly on 2.8.2022 the said I.A was dismissed. Therefore there is no impediment for the second respondent to survey the Petitioner's property, which is a different survey number.

5. In view of the aforesaid position, the second respondent is

directed to conduct a survey and demarcate the boundaries in respect of



the Petitioner's property comprised in Old S.No.46/1., New S.No.120/26, measuring a total extent of 475.5 square feet, situated at Pudupatti village, Madurai District on the basis of the Petitioner's online Survey Application Challan, dated 24.05.2022, after giving an opportunity of hearing to all the parties concerned, within a period of eight weeks from the date of receipt of a copy of this order.

6. With the above direction, the writ Petition stands disposed of. NO costs.

16.09.2022

Index : Yes/No

Internet: Yes/No

vsn

To

1. The District Collector,
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2. The Tahsildar,
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V.BHAVANI SUBBAROYAN,J

vsn

ORDER MADE IN

W.P(MD)No.21991 of 2022

16.09.2022

W.P.(MD)No.21991 of 2022



V.BHAVANI SUBBAROYAN,J.

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The matter is taken up for hearing today under the caption for "Being Mentioned".

2. It is submitted by the learned counsel for the petitioner that in the order dated 16.09.2022 in W.P.(MD).No.21991 of 2022, one line ie., '***Old Survey No.46/1, New Survey No.120/24 measuring a total extent of 745 square feet and***' has been omitted in the prayer portion, first paragraph and in the 5th paragraph of the order and in the 3rd paragraph, old survey number has been wrongly mentioned as 'Old S.No.45/1' instead of 'Old S.No.46/1'.

3. In view of the above, the Registry is directed to carry out necessary corrections in the order and issue fresh order copy.

17.10.2022

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V.BHAVANI SUBBAROYAN,J.

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W.P.(MD).No.21991 of 2022

17.10.2022