



W.P(MD)No.17192 of 2016

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.08.2022

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.17192 of 2016

and

W.M.P(MD)No.12473 to 12475 of 2016

K.Udhayasankar

... Petitioner

Vs.

1.The Tahsildar,
Tahsildar Office,
Thanjavur Taluk,
Court Road,
Thanjavur-613 001.

2.T.K.Sailakshmi

3.A.Elangovan

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of the first respondent in Tho.Mu.Pa.Maa.6(2)4725/2012 D (1) dated .08.2012 signed on 17.08.2012 and quash the same which was passed in violation of the Section 9 and 10 of the Tamil Nadu Surveys and boundaries Act 1923.



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For Petitioner : Mr.M.Mohamed Sherbudeen

For R1 : Mr.N.Muthuvijayan
Special Government Pleader

For R2 & R3 : No Appearance

ORDER

The present writ petition has been filed challenging an order passed by the first respondent herein, under which the first respondent has created sub-division in Patta No.2242 and issued separate patta in favour of the writ petitioner and the second respondent herein.

2. According to the petitioner, he is entitled to 475 square meters in Survey No.2242 in Block No.35, Palliyagraharam, Thanjavore District and the balance extent in the said survey number belongs to the second respondent herein. The petitioner has derived title on the basis of a registered settlement deed executed by his father in his favour on 18.12.2009. However, without any notice to the writ petitioner, the first respondent has passed an order, under which the Survey No.2242/1 was subdivided into Survey Nos.2242/1A and 2242/1B. After the subdivision, the petitioner's father was allotted Survey No.2242/1A having an extent of 0.0421.5 square meters. Hence, according to the



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petitioner, though he is entitled to 475 square meters, by way of a subdivision and grant of separate patta in Patta No.1410, the extent has been reduced.

3. The learned counsel for the petitioner has further contended that the second respondent has approached the first respondent for effecting subdivision and grant of separate patta. Based on the application of the second respondent, the first respondent had called for a report from the Town Surveyor and based upon the said report, the order impugned in the writ petition has been passed.

4. A perusal of the order impugned itself points out that a total extent of 0.0900.0 square meters in Survey No.2242/1 was jointly owned by T.S.Krishna Rao and Krishna Moorthy. However, without issuing any notice to T.S.Krishna Rao, who is the father of the petitioner, the present impugned order has been passed. Section 9 (2) of the Tamil Nadu Survey and Boundaries Act, 1923 makes it mandatory on the part of the authorities to issue notice to the registered holders of the land before carrying out the survey. However, in the present case, no notice has been issued to the writ petitioner before passing the impugned order.



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5. The second respondent has refused to receive the notice and hence, it is to be treated as service to the second respondent. The third respondent though has entered his appearance through a counsel, there is no representation on the side of the third respondent.

6. In view of the above said facts, the order impugned in the writ petition is set aside. The matter is remitted back to the file of the first respondent to pass orders on merits and in accordance with law after giving due opportunity to the writ petitioner and the respondents 2 and 3. The said exercise shall be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order.

7. With the above said observations, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

29.08.2022

Index : Yes / No
Internet : Yes / No

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To

The Tahsildar,
Tahsildar Office,
Thanjavur Taluk,
Court Road,
Thanjavur-613 001.



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R.VIJAYAKUMAR ,J.

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Order made in
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Dated:
29.08.2022