



W.P.(MD)No.24595 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 31.10.2022

CORAM

THE HONOURABLE Mrs. JUSTICE V.BHAVANI SUBBAROYAN

Writ Petition (MD) No.24595 of 2022

V.Paneerselvam

.. Petitioner

Versus

1.The Tahsildar,
Theni Taluk,
Theni District.

2.The Taluk Surveyor,
Theni Taluk,
Theni District.

.. Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents 1 and 2 to survey the petitioner's land in Survey Nos.353/2A2 and 353/2A4, situated at Unjanpatty Village, Theni Taluk, Theni District, on the basis of the petitioner's application dated 07.09.2022.

For Petitioner : Mr.R.Shankar Ganesh

For Respondents : Mr.D.Gandhiraj
Special Government Pleader

ORDER

The petitioner has prayed for issuance of a Writ of Mandamus, directing the respondents 1 and 2 to survey his land in Survey Nos.353/2A2 and



W.P.(MD)No.24595 of 2022

353/2A4, situated at Unjanpatty Village, Theni Taluk, Theni District, on the basis of his application, dated 07.09.2022.

2.Heard Mr.R.Shankar Ganesh, learned counsel appearing for the petitioner and Mr.D.Gandhiraj, learned Special Government Pleader, who takes notice for the respondents. By consent of the learned counsel appearing for the parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3.According to the petitioner, the properties measuring an extent of 5.73 cents and 5.45 cents, sub-divided as Plot Nos.2 and 6, from the land having a total extent of 1 acre and 78 cents in the eastern side, out of 2 acre and 76 cents, comprised in S.Nos.353/1 [1 acre and 38 cents] and 353/2 [1 acre and 38 cents], situated at Sukkuvadanpatty, Unjanpatty Village, Theni Taluk, Theni District, belongs to him. His wife owned Plot Nos.3, 7 and 8 and a vacant land between Plot Nos.1 and 2, measuring an extent of 6.47 cents, 6.81.75 cents, 6.61 cents and 359.25 sq.ft. respectively, adjacent to his land. Now, the said plots are sub-divided into S.Nos.353/2A2, 353/2A4, 353/2A3 and 353/2A5 and Patta stands in his name and his wife's name in Patta Nos.5194 and 5195.



W.P.(MD)No.24595 of 2022

4. According to the petitioner, the property comprised in S.No.353/1, measuring an extent of 1 acre and 38 cents originally belonged to Periyakarupathevar family and they sold the said property to one Palanichamy, S/o.Pinniyappathevar on 12.02.1997. The land measuring an extent of 1 acre and 38 cents, comprised in S.No.353/2 originally belonged to one Muthumuniyandi by inheritance and he sold the said property to the said Palanichamy on 19.11.1997. The petitioner purchased the properties from one Karmegam Chettiar, *i.e.*, the Power Agent of the above said Palanichamy on 21.05.2004 and on 01.10.2010 from one R.Ganesan, S/o.P.S.Ramasamy. The petitioner's wife purchased the properties from the said Palanichamy on 06.01.2003. From the date of said purchase, the petitioner and his wife are in peaceful possession and enjoyment of the above said properties. In the meanwhile, certain persons are trying to disturb their possession and enjoyment of the properties, and therefore, the petitioner and his wife filed a suit in O.S.No.63 of 2020 for permanent injunction against them and the same is pending before the District Munsif Court, Theni.

5. Further, according to the petitioner, due to continuance of unlawful activities by the third parties, on 07.09.2022, the petitioner made an application to survey the land along with requisite fees to the first respondent through online. Since the said application was not considered so far, the



W.P.(MD)No.24595 of 2022

petitioner has approached this Court by way of filing the present Writ Petition for the relief stated supra.

6.The learned Special Government Pleader appearing for the respondents submitted that Patta No.5194 in respect of S.Nos.353/2A2 and 353/2A4, measuring an extent of 0.01.99 Hectare and 0.02.33 Hectare respectively, stands in the name of Paneer Selvam and the same has not been mutated in the FMB and also in the Village Revenue Records and therefore, the respondents could not identify the property and measure the same and they could not get the original documents. The property will be measured by the authorities concerned only in respect of the extent in which the petitioner is in possession and Patta can be issued after survey. If the petitioner is aggrieved, he can approach the competent Civil Court for redressing his grievance.

7.In view of the above said submission made by the learned Special Government Pleader appearing for the respondents, this Court directs the respondents to measure only the extent in which the petitioner is in possession, after issuing a notice to all the necessary parties concerned and issue Patta after completion of survey. If the petitioner is aggrieved by the said survey, he can approach the competent Civil Court for redressing his grievance. The entire exercise shall be completed within a period of 12 weeks from the date of



W.P.(MD)No.24595 of 2022

8.This Writ Petition stands disposed of with the above directions and observations. No costs.

Index : Yes/No
smn2

31.10.2022

To

- 1.The Tahsildar,
Theni Taluk,
Theni District.
- 2.The Taluk Surveyor,
Theni Taluk,
Theni District.



WEB COPY



W.P.(MD)No.24595 of 2022

V.BHAVANI SUBBAROYAN, J.

smn2

Order made in
W.P.(MD)No.24595 of 2022

31.10.2022