

Rev.Apl.W(MD)No.88 of 2022
in
W.P.(MD)No.16746 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

**Rev.Apl.W(MD)No.88 of 2022
in
W.P.(MD)No.16746 of 2022
and
W.M.P.(MD)Nos.19847 & 19849 of 2022**

K.Malathi

... Petitioner

Vs.

1.Kaleeswari

2.The District Collector,
Sulakarai Collectorate Campus,
Virudhunagar Collectorate Campus,
Virudhunagar District.

3.The Assistant Director,
Department of Survey,
Virudhunagar Collectorate Campus,
Virudhunagar District.

4.The Tahsildar, Srivilliputhur Taluk,
Virudhunagar District.

5.The Head Surveyor,
Department of Survey,
Srivilliputhur Taluk Office Campus,
Srivilliputhur, Virudhunagar District

... Respondents

PRAYER: Petition filed under Order 47 Rule 1 & 2 r/w Section 114 of C.P.C., praying to review the orders passed in W.P.(MD)No.16746 of 2022, dated 26.08.2022.

For Petitioner : Mr.S.C.Herold Singh
For R1 : Mr.S.M.Ramasiva
For R2 to R5 : Mr.M.Lingadurai
Special Government Pleader

ORDER

Heard the learned counsel on either side.

2.The first respondent herein Mrs.Kaleeswari filed W.P.(MD)No. 16746 of 2022 for survey of the land comprised in Survey Nos.1258/3 and 1258/4 in Malli Village.

3.I had disposed of the said writ petition vide order dated 26.08.2022. In fact, the order passed by me does not in any way affect the rights of the review applicant. This is because the survey authority

was directed to conduct survey only after issuing notice to the adjacent land owners as well as interested persons, if any. I had also directed that enquiry will be held if the noticees raise objections. If the survey authority finds substance in the objections, the applicant is to be relegated to move the jurisdictional civil court.

4.Be that as it may, the review application has been filed on the ground that the review applicant had already filed O.S.No.308 of 2022 on the file of the Principal Sub Court, Srivilliputhur and that in the said suit, the court had already appointed an Advocate Commissioner for surveying the suit schedule property. The writ petitioner is the sole defendant therein. The counsel for the review applicant complains that in the writ affidavit, there is no whisper about the pendency of the suit. The writ petitioner had deliberately not impleaded the review applicant as one of the respondents.

5.The learned counsel appearing for the writ petitioner / R1 claims that the survey numbers for which she sought relief are not part of the suit schedule.

6.I compared the suit schedule with the details set out in the writ petition. I am satisfied that the survey numbers mentioned by the writ petitioner / R1 form part of the suit schedule. The writ petitioner had not impleaded the review applicant. Since I had passed the order without notice to the review applicant, the order passed by me in the writ petition stands recalled. The writ petition stands dismissed. This is more so because the Civil Court itself has ordered survey. However, the Principal Sub Court, Srivilliputhur will issue a revised warrant so that a comprehensive survey can be undertaken. The Advocate Commissioner will conduct survey not only the suit schedule properties in general but also the survey numbers mentioned by the writ petitioner / R1 in particular. The review application is allowed. Connected miscellaneous petitions are closed.

7.At this stage, I feel like sharing my thoughts with the learned Principal Sub Judge, Srivilliputhur. Day before yesterday ie., 03.12.2022 we celebrated the International Day of Disabled Persons. Our Constitution is an inclusive document and we must make every effort to

ensure that persons with disabilities have barrier free access to everything. Charity begins at home. It is quite possible that in Srivilliputhur Bar, there are advocates who are physically challenged. Whenever advocate commissions are issued, some kind of priority can be given to the counsel who are physically disabled. The learned Principal Sub Judge, Srivilliputhur will bear this request of mine while issuing future commissions. He can also share this with his fellow judicial officers.

05.12.2022

Index : Yes/No,
Internet : Yes/No
rmi

Registry to mark a copy of this order to Principal Sub Judge, Srivilliputhur.

To

- 1.The District Collector, Sulakarai Collectorate Campus,
Virudhunagar Collectorate Campus, Virudhunagar District.
- 2.The Assistant Director, Department of Survey,
Virudhunagar Collectorate Campus, Virudhunagar District.
- 3.The Thasildar, Srivilliputhur Taluk, Virudhunagar District.

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4.The Head Surveyor, Department of Survey,
Srivilliputhur Taluk Office Campus, Srivilliputhur,
Virudhunagar District.

5.The Principal Sub Court, Srivilliputhur.

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G.R.SWAMINATHAN, J.

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