



C.M.P.(MD)No.12266 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.P.(MD)No.12266 of 2022

in

W.A.(MD)SR.No.68583 of 2022

and

W.A.(MD)SR.No.68583 of 2022

Murugesan

... Petitioner / Appellant

-Vs-

1.M.Baskaran

2.The District Collector,

Thanjavur,

Thanjavur District.

3.The Tahsildar,

Peravurani,

Thanjavur District.

Page 1 of 6



C.M.P.(MD)No.12266 of 2022

WEB COURT

4.The Taluk Surveyor,

Peravurani,

Thanjavur District.

... Respondents / Respondents

PRAYER in C.M.P.(MD)No.12266 of 2022: Petition filed under Section 5 of Limitation Act, praying this Court to grant leave to the petitioner to file the above Writ Appeal against the order in W.P.(MD)No.18098 of 2022, dated 11.08.2022, on the file of this Court.

PRAYER in W.A.(MD)SR.No.68583 of 2022: Appeal filed under Clause 15 of the Letters Patent, praying this Court to set aside the order dated 11.08.2022 made in W.P.(MD)No.18098 of 2022.

For Petitioner : Mr.A.C.Asaithambi

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

The petitioner has filed this Civil Miscellaneous Petition to grant leave to the petitioner to file an appeal, challenging the order of this Court dated 11.08.2022 made in W.P.(MD)No.18098 of 2022.

Page 2 of 6



C.M.P.(MD)No.12266 of 2022

WEB COPY

2. According to the petitioner, his father and others filed a Civil Suit in O.S.No.53 of 2013 on the file of the District Munsif Court, Pattukottai, seeking declaration of title of the property and injunction against the 1st respondent and others and the same was dismissed by the judgment and decree dated 11.08.2018. Against which, A.S.No.24 of 2019 was filed before the Subordinate Court, Pattukottai and the same was also dismissed, by the judgment and decree dated 16.10.2020. Aggrieved by the same, the petitioner herein has filed a Second Appeal in S.A.(MD)SR.No.13187 of 2022 before this Court. In the meantime, the 1st respondent herein has filed W.P.(MD)No.18098 of 2022 seeking issuance of Mandamus, to direct the respondents 2 to 4 to take appropriate steps to survey and fix the boundaries in respect of the land in Survey Nos.81/8A, 8B, Valapramankaadu Village, Peravurani Taluk, Thanjavur District on the basis of the representation dated 23.02.2022, wherein this Court, by an order dated 11.08.2022, has passed the following order:-

“2.The Writ Petition is disposed of with the following directions:-

(1)The survey authority will issue notice to the writ petitioner

Page 3 of 6



C.M.P.(MD)No.12266 of 2022

WEB COPY

as well as the adjacent land owners and also to the interested persons, if any.

(II) Enquiry shall be held. During enquiry, objections raised by the adjacent land owners / interested persons shall be considered.

(III) If according to the jurisdictional authority, the objections are without any basis, the same shall be overruled and the objectors shall be informed accordingly. But the survey will be conducted only after a period of six weeks so that the objector can move the concerned Court for injunction. If before the proposed date of survey, the objector is unable to obtain any injunction order, the survey can very well go on.

(IV) If the jurisdictional authority finds objections to be having substance, then, he shall call upon the applicant to move the jurisdictional civil Court for agitating his rights.

(V) If required, the survey authority is empowered to seek aid of the jurisdictional police and the jurisdictional police are mandated to grant police protection.

No costs."

3. Therefore, the petitioner, being aggrieved by the said order, has filed this petition to grant leave to file the appeal.



C.M.P.(MD)No.12266 of 2022

WEB COPY

4.We have gone through the order passed by the learned Single Judge, especially, Clause Nos.1, 2 and 4 in paragraph No.2, wherein it is clearly stated that if the jurisdictional authority finds objections to be having substance, then, he shall call upon the applicant to move the jurisdictional civil Court for agitating his rights. In the light of the aforesaid order, since the petitioner is having a right to make an objection before the authority concerned, it is for him to make an objection before the authority concerned. Hence, no interference is required in the order passed by the learned Single Judge. Accordingly, this Civil Miscellaneous Petition is dismissed. No costs. Consequently, W.A.(MD)SR.No. 68583 of 2022 is rejected at the SR stage itself.

[D.K.K., J.] & [R.V., J.]

15.12.2022

Index : Yes / No

Internet : Yes / No

Myr

Page 5 of 6



WEB COPY



C.M.P.(MD)No.12266 of 2022

D.KRISHNAKUMAR, J.

AND

R.VIJAYAKUMAR, J.

Myr

C.M.P.(MD)No.12266 of 2022

in

W.A.(MD)SR.No.68583 of 2022

and

W.A.(MD)SR.No.68583 of 2022

15.12.2022