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WP No.15854 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30-06-2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP No.15854 of 2023

P.Sanjeevan

... Petitioner

Vs.

- 1.The Tahsildar,
Office of the Tahsildar,
Bargoor Taluk,
Krishnagiri District.
- 2.The Taluk Firka Surveyor (Survey and Land),
Office of the Taluk Firka Surveyor,
Bargoor Taluk,
Krishnagiri District.
- 3.The Village Administrative Officer,
Office of the Village Administrative Officer,
Anganyapalli Post,
Oppathavadi Village,
Bargoor Taluk,
Krishnagiri District.
- 4.T.Perumal
- 5.T.Sanjeevan



6.T.Gopal

7.R.Elavarasan

WP No.15854 of 2



... Respondents

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Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, restraining the respondents 1 to 3 from survey and demarcate the lands in Survey Nos.(1) 443/9, 446/6, 445/12, (2) 442/1B, 443/12, 442/1D, (3) 445/5, 446/8, 445/8 Oppathavadi Village, Bargoor Taluk, Krishnagiri District.

For Petitioner : Ms.R.Saritha

For Respondents-1 to 3 : Mr.N.Naveenkumar,
Government Advocate.

For Respondents-4 to 7 : Mr.S.Arivazhagan

ORDER

The Writ of Mandamus has been instituted to restrain the respondents 1 to 3 from survey and demarcate the lands in Survey Nos.(1) 443/9, 446/6, 445/12, (2) 442/1B, 443/12, 442/1D, (3) 445/5, 446/8, 445/8 Oppanthavadi Village, Bargoor Taluk, Krishnagiri District.



2. The petitioner states that the subject properties more fully described in paragraph-2 of the affidavit filed along with the present writ petition, belongs to one Mr.Sanjeevi Gounder, who is the Grandfather of the writ petitioner.

3. The said Mr.Sanjeevi Gounder died, leaving behind the father of the petitioner and his brother Mr.Thirupathi as his legal heirs. Accordingly, the father of the writ petitioner Mr.Perumal and his brother Mr.Thirupathi inherited the subject properties and are in possession of the properties jointly without any partition.

4. The father's brother of the writ petitioner Mr.Thirupathi Gounder died in the year 2007, leaving behind the respondents 4 to 6 along with one Mr.Govindhan as his legal heirs.

5. The petitioner states that no partition took place between the legal heirs and the respondents 4 to 7 taking undue advantage, attempting to deprive the writ petitioner from getting his portion of the property.



6. The learned counsel for the writ petitioner made a submission that the sisters of the writ petitioner filed suit for partition in OS No.110 of 2021 on the file of the Sub Court, Krishnagiri, which is pending. During the pendency of the said partition suit, the fifth respondent Mr.T.Sanjeevan filed WP No.29263 of 2022 with a prayer to direct the respondents to survey and demarcate the boundary of the petitioner's land comprised in Survey Nos.443/9, 446/5, 445/12 situated at Anginayappalli, Oppathavadi Village, Bargoor Taluk, Krishnagiri District.

7. This Court passed an order on 07.11.2022 directing the Authorities to consider the representation submitted by the writ petitioner on 04.09.2022 and pass appropriate orders on the representation submitted by the petitioner to measure and demarcate the boundary of the said lands.

8. The learned counsel for the writ petitioner states that the petitioner was not made as a party in the said proceedings and the order was obtained behind the back of the petitioner and by suppressing the fact that the suit for partition was pending before the Sub Court, Krishnagiri. That apart, an appeal is also pending before the District Revenue Officer between



the petitioner and the fifth respondent Mr.T.Sanjeevan.

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9. The case on hand is a classic case where the parties are attempting to settle their civil rights by filing writ proceedings under Article 226 of the Constitution of India. There is a growing practice of filing writ petitions to direct the Authorities concerned to consider the representations to survey the lands and to fix the boundaries.

10. Mere direction to consider the representation would do no service to the cause of justice. Thus the parties are filing writ petitions after writ petitions, which would cause prejudice to either of the parties.

11. The aggrieved persons submitting applications/ representations must establish their right for issuing directions by this Court to the Authorities to consider their representations. Each and every representations submitted by the petitioner, cannot be directed to be disposed of by issuing Writ of Mandamus.



12. The Competent Authorities are not expected to dispose of all the representations, wherein no rights or redressal grievances are made out in the representation. In the event of issuing routine directions by the High Court, the same would cause prejudice to the public administration while performing their routine public duties. Therefore, the Courts have to consider whether the petitioner has submitted representation/application by establishing his right and such rights can be enquired into or adjudicated by the Competent Authorities on merits, then alone directions are to be issued.

13. The fifth respondent herein earlier filed WP No.29263 of 2022, seeking directions to the Authorities to survey the lands. Per contra, the present writ petition has been filed by the writ petitioner herein, seeking a direction not to survey the said land.

14. This being the contrary writ proceedings instituted between the parties, the Courts are not expected to issue directions to consider the representation or to direct the Authorities to survey the land in the absence of establishing any rights. In the event of disputed issues, the parties are to be relegated to approach the Civil Court of Law. The attempt of the parties



to resolve the civil disputes through writ proceedings are to be thwarted by getting simple direction to survey the land and fix the boundaries. The parties are attempting to resolve the civil disputes, which is impermissible and undoubtedly, would cause prejudice to any one of the parties.

15. In the present case, the suit for partition is already subjudiced on the file of the Sub Court, Krishnagiri. If at all any necessary party has to be impleaded in the suit filed by the plaintiff, it is left open to the parties to implead themselves in the suit for effective adjudication of the disputes. Contrarily, the Writ Court cannot entertain such writ petitions and adjudicate the disputed facts between the parties.

16. The power of Judicial Review of this Court under Article 226 of the Constitution of India, is to ensure the process through which a decision taken by the Competent Authorities, is in consonance with the Statute and the Rules in force, but not the decision itself. Thus the scope of the Judicial Review under Article 226 of the Constitution of India, cannot be expanded for the purpose of adjudication of the disputed issues between the parties.



17. In view of the facts and circumstances, the petitioner is at liberty to pursue his remedy before the Competent Civil Court of Law and so also the other respondents are at liberty to contest and establish their rights in the manner known to law.

18. With the above liberty, the writ petition stands disposed of. However, there shall be no order as to costs.

30-06-2023

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
Svn



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WP No.15854 of 2





WEB COPY

WP No.15854 of 2



S.M.SUBRAMANIAM, J.

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