



W.P.(MD)No.4806 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.04.2023

CORAM

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD)No.4806 of 2020 &
WMP(MD)No.4184 of 2020

V.Ganesan

Vs.

... Petitioner

1.The District Collector,
Ramanathapuram District,
Ramanathapuram.

2.The Sub-Collector/Revenue Divisional Officer,
Paramakudi, Ramanathapuram District.

3.The Tahsildar,
Taluk Office,
Kadaladi Taluk,
Ramanathapuram District.

4.The Inspector of Police,
Keela Selvanoor Police Station,
Ramanathapuram District.

5.Yousup

... Respondents



W.P.(MD)No.4806 of 2020

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the third respondent to give prior notice to the petitioner, title holders of the land bearing S.Nos.23/2 and 23/3 situated at Melakitaram Group, Kadaladi Taluk, Ramanathapuram District for surveying the aforesaid land.

For Petitioner : Mr.R.Murugappan

For Respondents : Mr.D.Ghandiraj
Special Government Pleader
for R1 to R4

Mr.K.Rajeshwaran for R5

ORDER

The petitioner has sought for a mandamus to the third respondent to survey the properties comprised in S.Nos.23/2 and 23/3 at Melakitaram Group, Kadaladi Taluk, Ramanathapuram District after giving due notice to the petitioner and the title holders of the aforesaid properties.



W.P.(MD)No.4806 of 2020

WEB COPY

2. It is the case of the petitioner that the aforesaid properties belong to his family. The fifth respondent who is no way connected with his family had filed a suit in O.S.No108 of 2015 on the file of the District Munsif Court, Kadaladi which was ultimately dismissed on 02.07.2016 against which no appeal has been preferred. Thereafter, the fifth respondent along with the respondents 3 and 4, had come to the aforesaid properties on 28.02.2020 and attempted to survey the same without serving any notice or summons on the petitioner. Since it was objected by the petitioner's family, they had left the place. However, they had informed the petitioner that they would come back to survey the lands. It is the contention of the petitioner that the fifth respondent who had already lost in the suit cannot demand the third respondent to survey the properties. He would submit that as per the law, the third respondent is duty bound to give prior notice to the title holders of the land in respect of which, the survey is to be undertaken. Since the third respondent had failed to follow the procedures, the petitioner has come forward with the instant writ petition.



W.P.(MD)No.4806 of 2020

WEB COPY

3. Heard the learned counsels on either side.

4. It is needless to state that the third respondent before undertaking to survey the land, is duty bound to give notice to not only the owners of the land in respect of which the survey is to be done, but also, the adjacent owners to ensure that the survey and demarcation is done properly.

5. Therefore, the writ petition is disposed of directing the third respondent to carry out the survey and demarcation on or before 30.04.2023 following due process of law and after giving notice to all persons interested. No costs. Consequently, the connected Miscellaneous Petition is closed.

05.04.2023

NCC:Yes/No

Index:Yes/No

Speaking/Non-speaking order

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W.P.(MD)No.4806 of 2020

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W.P.(MD)No.4806 of 2020

P.T.ASHA, J.

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W.P.(MD)No.4806 of 2020

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