



W.P(MD)No.17488 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.09.2023

CORAM :

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P(MD)No.17488 of 2021

Chithiravel

... Petitioner

Vs.

- 1.The Superintendent of Police,
Tenkasi District,
Tenkasi.
- 2.The Inspector of Police,
Sankarankovil Town Police Station,
Sankarankovil,
Tenkasi District.
- 3.The Tahsildar,
Sankarankovil Taluk,
Sankarankovil,
Tenkasi District.
- 4.The Taluk Surveyor,
Sankarankovil Taluk Office,
Sankarankovil Taluk,
Sankarankovil,
Tenkasi District.

5.Sankaran

6.Ganesan

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1 and 2 to issue adequate police protection to remove the illegal fence, made by the respondents 5 and 6 in R.S.No.209/3a1/3b1, Sankarankovil, Sankaranvovil, Taluk, Tenkasi District and to direct the respondents 3 and 4 to demarcate above land, in the light of petitioner's representation dated 16.07.2021, within a time frame as fixed by this Court.

For Petitioner	: Mr.M.Rajaguru for M/s.Sathana Krishnan
For R1 to R4	: Mr.M.Meenakshi Sundaram Additional Public Prosecutor
For R5	: Mr.M.Mithun

ORDER

The petitioner has filed this Writ Petition seeking direction, directing the respondents 1 and 2 to issue adequate Police Protection to remove the illegal fence made by the respondents 5 and 6 in R.S.No. 209/3a1/3b1, Sankarankovil, Sankarankovil Taluk, Tenkasi District, and further direct the respondents 3 and 4 to demarcate the above said land, in the light of the petitioner's representation, dated 16.07.2021.

2. The contention of the petitioner is that, the petitioner's father namely, Pulugandi Thevar purchased the property on 05.12.1991 and the same has been registered as Document No.368 of 1992. The petitioner's



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father passed away on 23.11.2019, leaving behind the petitioner, his mother, brothers and sisters as legal heirs. Thereafter, they are in peaceful possession and enjoyment of the property. In order to survey and demarcate the property, the petitioner approached the respondents 3 and 4, who failed to conduct survey and demarcate the boundaries of the property. Hence, the petitioner filed W.P.(MD)No.17113 of 2019 before this Court seeking direction to the respondents 3 and 4 to demarcate the property in the light of his representation, dated 05.07.2019. This Court, by order dated 02.08.2019, disposed of the Writ Petition, directing the Tahsildar to consider the representation of the petitioner, dated 05.07.2019 and decide the same on merits and in accordance with law. Following the same, the Tahsildar, Sankarankovil, vide his proceedings in Na.Ka.Aa9/6647/2019, dated 07.01.2021, informed the petitioner that the property has been fenced by third parties and directed the petitioner to seek police protection to remove the fencing. Thereafter, the petitioner had approached the respondents 1 and 2 for Police protection. Since no action has been taken by the officials, the petitioner filed the present Writ Petition for the relief stated supra.



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3.The learned Additional Public Prosecutor for the respondents 1 to 4 submitted that the petitioner obtained a direction from this Court in W.P. (MD)No.17113 of 2019 on 02.08.2019, based on which, the petitioner's request was considered. When the land was to be surveyed, it was found that there was fencing in the property and also rival claims. Further, there are some discrepancies in the extent of the property as to the revenue records and therefore, the Police cannot interfere into the civil dispute. Hence, the petitioner was directed to approach the Civil Court. If a request is made by the Tahsildar and the revenue officials, necessary police protection can be given.

4.The learned counsel for the fifth respondent submitted that in this case, the fifth respondent's father namely, Velu Asari sold 95 cents of land to one Seeni Ammal on 14.08.1989, vide Document No.749 of 1989. Thereafter, the said Seeni Ammal was in possession and enjoyment of the said land. This being so, Seeni Ammal executed a sale deed to an extent of 1.35 Acres to one Mariappan through Document No.930 of 1991 on 23.09.1991. Though the said Seeni Ammal, who was only having an extent of 95 cents of land, executed a sale deed to Mariappan to an extent of 1.35 Acres. Thereafter, the said Mariappan executed a sale



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deed in favour of the petitioner's father, to an extent of 1.35 Acres, vide sale deed bearing Document No.368 of 1992, which is only in paper, not in the field. The revenue records also confirmed the same. When the said Mariappan himself has no right to execute the sale deed to an extent of 1.35 Acres, now, the petitioner is making a claim based on the sale deed executed by Mariappan to his father.

5. The learned counsel for the fifth respondent further submitted that the petitioner earlier approached the District Registrar, Tenkasi District, for the same dispute and the District Registrar after conducting enquiry, vide his proceedings in 156/Aa2/2018, dated 13.06.2019, passed a detailed order stating that the petitioner's claim cannot be entertained, since the father of the petitioner and his predecessor to the sale deed namely, Seeni Ammal purchased only 95 cents of the property and she wrongly mentioned the extent of the land in the sale deed executed to one Mariappan as 1.35 Acres, based on which, Mariappan executed a sale deed for 1.35 Acres, which is not correct as per the parent document and the encumbrance certificate. In view of the same, the petitioner's petition was already disposed. The petitioner having failed before the District Registrar, not filed any appeal challenging the order passed by the



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District Registrar, instead, he approached this Court as though he inherited 1.35 Acres of land from his father and the same to be surveyed and its boundaries to be earmarked, suppressing the real facts with unclean hands and hence, he prayed for dismissal of the Writ Petition with exemplary costs.

6. The learned counsel for the petitioner, at this stage seeks permission of this Court to withdraw this petition and he has also made an endorsement to that effect.

7. In view of the endorsement made by the learned counsel appearing for the writ petitioner, this Writ Petition is dismissed as withdrawn. No Costs.

01.09.2023

NCC :Yes/No
Index :Yes/No
Internet : Yes/ No
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- 3.The Tahsildar,
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- 4.The Taluk Surveyor,
Sankarankovil Taluk Office,
Sankarankovil Taluk,
Sankarankovil,
Tenkasi District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.NIRMAL KUMAR, J.

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Order made in
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Dated : 01.09.2023