



W.P(MD)No.15767 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 20.09.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.15767 of 2014
and
M.P.(MD)No.1 of 2014

K.P.Jeyapaul Asan

... Petitioner

Vs.

1.The District Collector,
Kanyakumari District,
Nagercoil.

2.The Tahsildar,
Thiruvattar Thasildar Office,
Thiruvattar Post,
Kanyakumari District.

(R2 is amended vide order dated 07.03.2023 in
W.M.P.(MD)No.3797 of 2022 in
W.P.(MD)No.15767 of 2014 by BPJ)

3.Devaraj

4.Suni

5.Kalaikiri

6.Kalaikumar

*(R3 to R6 are impleaded vide order dated
07.03.2023 in W.M.P.(MD)No.11056 of 2017 in
W.P.(MD)No.15767 of 2014 by BPJ)*

1/6



W.P(MD)No.15767 of 2014

7.The Commissioner,
Revenue Administration,
Ezhilagam, Chennai.

... Respondents

*(R7 is suo motu impleaded vide order dated
29.03.2023 WP(MD)No.15767 of 2014 by BPJ)*

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the 2nd respondent in Na.Ka.U 1/47021/10 dated 01.09.2014 and quash the same, consequently direct the 2nd respondent to measure and mark the boundary of the land comprised in Re.Sy.No. 134/3 on the basis of the sketch annexed in the decree made in O.S.No.189 of 1106 (M.E) dated 15.08.1942 within the stipulated period fixed by this Honourable Court.

For Petitioner : Mr.C.Sankar Prakash

For Respondents : Mr.M.Siddharthan,
Addl. Government Pleader for R1, R2 & R7.
Mr.C.Murugavel for R3 & R4.
Mr.N.Dilip Kumar for R5.

ORDER

Heard the learned counsel on either side.



W.P(MD)No.15767 of 2014

2.The petitioner wanted the jurisdictional Tahsildar to conduct survey, measurement and earmarking of the petition mentioned boundaries. The jurisdictional Tahsildar was not inclined to do so. Challenging the said decision, the present writ petition came to be filed.

3.The learned counsel on either side reiterated their stand taken in their respective pleadings.

4.The petitioner wants measurement to be done as per the sketch annexed to the decree made in O.S.No.189 of 1106 (Malayalam Era) dated 15.08.1942. The learned counsel for the contesting respondents points out that there has been several subsequent developments. They are evident from the dates and events furnished by the learned counsel for the fifth respondent. it is seen that the petitioner's father and his brother Kochappi Asan were allotted certain items of property in O.S.No.189 of 1106 (M.E). The petitioner's father and Kochappi Asan were on one side and there was joint allotment in their favour. 18 years later, Kochappi Asan filed a partition suit in O.S.No.250 of 1960 on the file of District Munsif Court, Padmanabhapuram against the petitioner's



W.P(MD)No.15767 of 2014

father. Final decree was passed on 14.12.1964. The fifth respondent would claim that he traces his title to Kochappi Asan branch. The petitioner disputes the same. Thus, when there are serious factual disputes regarding tracing of title, it would be too much to expect the Tahsildar to go into the same. This Court has been consistently holding that the revenue authority should refrain from adjudicating when there is serious title-dispute. It is in this view of the matter, I sustain the stand taken by the jurisdictional Tahsildar. The petitioner can always move the jurisdictional Civil Court for appropriate relief. I make it clear that merits have not been gone into. All the contentions of the both the parties are left open.

5. With this liberty to the writ petitioner, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

20.09.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
ias



W.P(MD)No.15767 of 2014

To:-

- 1.The District Collector,
Kanyakumari District,
Nagercoil.
- 2.The Tahsildar,
Thiruvattar Thasildar Office,
Thiruvattar Post,
Kanyakumari District.
- 3.The Commissioner,
Revenue Administration,
Ezhilagam, Chennai.



WEB COPY



W.P(MD)No.15767 of 2014

G.R.SWAMINATHAN, J.

ias

W.P(MD)No.15767 of 2014

20.09.2023