



W.P(MD)No.6866 of 2014

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.07.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.6866 of 2014

K.Mari Rathinam @ Arumugasamy Naicker

... Petitioner

Vs

1.The Tahsildar,
Uthamapalayam Taluk,
Theni District.

2.Subramani

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the first respondent in his proceedings No.O.Mu.No. 78/2014/S dated 27.03.2014 and quash the same as illegal and consequently directing the first respondent to Survey Petitioner's land situated in S.No.83/7 at Erasanaickanur Village, Uthamapalayam Taluk, Theni District measuring an extent of 0.24 acrs and demarcate the same by laying survey stone after giving all the parties concerned within the time stipulated by this court.



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W.P(MD)No.6866 of 2014

For Petitioner : Mr.N.Mariappan

For Respondents : Mr.S.RA.Ramachandran
Additional Government Pleader for R.1

No Appearance for R.2

ORDER

Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the first respondent. Though the second respondent has been served and his name is printed in the cause list, he has not chosen to enter appearance.

2. The petitioner applied to the first respondent for conducting survey of the petition mentioned property. The petitioner's request was negatived and he was called upon to move the jurisdictional civil Court. Challenging the said stand of the first respondent, the present writ petition came to be filed.

3. The learned counsel appearing for the petitioner drew my attention to the patta issued in favour of the petitioner's father in respect of Survey No.83/7 Erasanaickanur Village in Uthamapalayam Taluk, Theni District, over an extent of 0.24.0 acres. He submitted that the petitioner's father is no more. The petitioner has inherited the property. When the patta stood in the name of his father, it is only just and proper that survey is done and fore boundaries were



W.P(MD)No.6866 of 2014

earmarked based on the request of the pattadhar. The learned counsel appearing for the petitioner submitted that the rejection order passed by the first respondent is unsustainable; he called upon this Court to set aside the same and grant relief as prayed for.

4. The first respondent had filed counter affidavit and the learned Additional Government Pleader took me through its contents. He called upon this Court to sustain the impugned order.

5. I carefully considered the rival contentions and went through the materials on record.

6. It is true that patta in respect of Survey No.83/7 had originally stood in favour of the petitioner's father. But it is not known as to how the petitioner's father's name was entered as pattadhar. The learned counsel for the petitioner would state that the property is an ancestral property.

7. Be that as it may, at present, in Survey No.83/7 there are two temples. A portion of Survey No.83/7 has been carved out as street and Government Noon Meal Centre is also running. There are four other pattadhars, namely, R.Rengasamy, Narayanathevar, N.Chinnasamy Nayudu and N.Maran Nayudu.



W.P(MD)No.6866 of 2014

8. Much water has flown under the bridge. The petitioner has to necessarily establish his title and right before the jurisdictional civil Court. By conducting survey and earmarking the four boundaries, no purpose will be served. When Survey No.83/7 is occupied by private persons, the revenue authority cannot go into the issue. The first respondent has rightly relegated the petitioner to move jurisdictional civil Court. The impugned order is sustained.

9. This writ petition stands dismissed. There shall be no order as to costs.

03.07.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
MGA

To

The Tahsildar,
Uthamapalayam Taluk,
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W.P(MD)No.6866 of 2014

G.R.SWAMINATHAN, J.

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