



W.P(MD)No.16102 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.09.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.16102 of 2015

and

M.P.(MD)No.1 of 2015

S.Gangiah

... Petitioner

Vs.

1.The District Collector,
Tirnelveli District.

2.The Revenue Divisional Officer,
Kovilpatti Taluk,
Thoothukudi District.

3.The Tahsildar,
Snakarankovil Taluk,
Tirunelveli District.

... Respondents

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 relating to the impugned order passed by the 3rd respondent in his proceeding in Na.Ka.Aa10/16338/2013 dated 15.12.2014 and quashed the same as illegal and consequently to direct the respondents to consider petitioners representation dated 16.09.2013 seeking to survey his portion of land in Natham Survey No. 199, admeasuring and total extent of 10 cents Re.Survey



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No. 1456/41, 42, 43 Pudupatti, Thiruvengadam Village, Sankarankovil,
Thoothukudi District and consequently to issue patta after rectifying the errors
to the above land within the time that may be stipulated by this Court.

For Petitioner : Mr.V.Karthik Raja
for Mr.M.Natarajan

For Respondent : Mr.N.GA.Nataraj
Government Advocate

ORDER

Heard the learned counsel on either side.

2. The petitioner submitted an application to the third respondent for conducting survey and for issuing patta. The petitioner's request was rejected vide order dated 15.12.2014. Challenging the same, this writ petition came to be filed.

3. The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition.

4. The respondent filed counter affidavit and the learned Government Advocate made available not only the revenue records but also the photographs of the construction put up. It is seen that Survey No.1456/41 stands in the name of Subbaiya Naicker who is none other than the father of the petitioner. The petitioner had put up a house therein.



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5. The allegation of the petitioner's pangalis is that the petitioner had already put up construction in Survey No.1456/44 which appears to be a common pathway. Since in the revenue record itself, Survey No.1456/44 has been classified as pathway, patta cannot be issued in respect of the same. The learned counsel for the petitioner asserts that the case of the petitioner that he has not encroached can be established when the survey is conducted.

6. I find force in this contention. I therefore direct the third respondent to issue notice to the petitioner as well as others. Survey shall be conducted in the name of all the interested parties. If survey indicates that construction has been put up by the petitioner in Survey No.1456/41, patta shall be issued. In any event, patta cannot be issued in respect of Survey No.1456/44. The entire exercise shall be completed within a period of 12 weeks from the date of receipt of a copy of this order. The object of the survey is to find out if encroachment has been committed on the pathway; for this, nobody have an objection.

7. The Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

07.09.2023

Index : Yes / No
Internet : Yes/ No

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G.R.SWAMINATHAN, J.

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To

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