



W.P.(MD)No.21386 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 22.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.21386 of 2021

Raja Mohamed

... Petitioner

Vs.

1.District Collector,
O/o. Collectorate,
Viruthunagar District,
Viruthunagar.

2.Assistant Director,
Land Survey Department,
Viruthunagar.

3.The Thasildar,
Srivilliputhur Taluk,
Viruthunagar District.

4.The President,
Mohaideen Andawar Jumma Pallivasal,
Koomapatti, Virudhunagar District.

5.Sulthan Rawthar,
S/o. Abdul Hameed

6.Sulthan Rawther,
S/o.Sukkur

...Respondents

[R4 to R6 are impleaded vide order dated 20.11.2023]



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PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, to direct the 1st respondent to consider the representation, dated 18.10.2021 within a stipulated time prescribed by this court.

For Petitioner : Mr.S.A.S.Alaudeen
For R1 to R3 : Mr.K.S.Selvaganesan
Additional Government Pleader
For R4 : Mr.M.Solaisamy

ORDER

This writ petition has been filed for the issue of writ of mandamus directing the first respondent to consider the representation dated 18.10.2021, wherein the petitioner has requested the first respondent to correct the survey number as Sy.No.681/84 instead of Sy.No.681/26 in the communication dated 20.08.2018 made to the second respondent.

2.Heard the learned counsel for the petitioner, learned Additional Government Pleader for the official respondents and the learned counsel for the fourth respondent.

3.The case of the petitioner is that he was the absolute owner of the subject property in Survey No.681/84. He executed the registered settlement deed in favour of his wife on 08.05.2017. The private respondents seems to



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have claimed right over a portion of the property and hence, the petitioner wanted to conduct survey in the property. He made a representation to the first respondent on 26.07.2018 requesting to measure the subject property and for fixing boundaries. The first respondent through communication dated 20.08.2018 directed the second respondent to act upon the representation of the petitioner and to submit a report. In this communication, Serial No.7 deals with the property belonging to the petitioner. The petitioner found that survey number has been wrongly mentioned in the above said communication as Sy.No.681/26 instead of Sy.No.681/84. Therefore, the petitioner made yet another representation to the first respondent on 17.10.2021 requesting for correcting the survey number as Sy.No.681/26. Since the same was not acted upon, the present writ petition has been filed before this Court.

4.In the considered view of this Court, the petitioner did not have any *locus standi* to make the representation before the first respondent or to file the present writ petition. Nowhere in the representation or in the affidavit filed in support of the writ petition, the petitioner has stated that he is representing his wife, the owner of the subject property and prosecuting the case. The petitioner is assuming that he continues to be the owner of the property and hence, he has given representation to the first respondent and has also filed this writ petition



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in his individual capacity. This ground by itself is enough to dismiss the present writ petition.

5. Admittedly, the petitioner had settled the property in favour of his wife. The petitioner has assumed that since he is the husband of the owner of the property, he can continue to claim right over the property and make the representation before the first respondent and thereafter, file this writ petition also. The law does not look at the husband and wife and it only looks at the person, who is actually the owner of the property. As per the documents available, it is seen that the wife of the petitioner is the owner of the property and she has not made any representation to the first respondent and she has not filed the present writ petition.

6. It is also brought to the notice of this Court that the wife of the petitioner died during the pendency of this writ petition. In view of this development, the property will now vest upon the legal heirs as per the Muslim Law. In view of the above discussion, the relief sought for by the petitioner cannot be granted by this Court. It is left open to the actual owners of the property to make a representation before the first respondent seeking for correction in the survey number. While making such representation, all the



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relevant documents shall also be placed before the first respondent. The first respondent shall act upon the same and see if any error has been made in the survey number and if so, an eratta shall be issued to the communication dated 20.08.2018 and correct survey number shall be mentioned. In any event, this process shall be completed by the first respondent within a period of four weeks from the date of receipt of the fresh representation from the actual owners of the property.

7.This writ petition is disposed of in the above terms. No costs.

22.11.2023

NCC : Yes / No
Index : Yes/No
Internet : Yes/No
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To

1.District Collector,
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2.Assistant Director,
Land Survey Department,
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3.The Thasildar,
Srivilliputhur Taluk,
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N.ANAND VENKATESH, J.

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4.The President,
Mohaideen Andawar Jumma Pallivasal,
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