



W.P.(MD).No.20839 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 22.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD). No.20839 of 2023

Katchammal

... Petitioner

Vs.

1. The District Collector,
Theni District,
Theni.

2. The Tahsildar,
Aundipatti Taluk,
Theni District.

3. The Town Surveyor,
Aundipatti,
Theni District.

4. K. Petchiammal

5. K. Selvendran

6. K. Mookan @ Andi

7. K. Ganesan

...Respondents



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PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondent Nos.1 to 3 to survey and sub-divide the petitioner's land in S.No.141/2B to an extent of 3 acre 40 cents out of total extent of 5 acre 32 cents and S.No.142 to an extent of 5 acre 67 ½ cents out of 8 acre 87 cents situated at Kanavaipatti Village, Aundipatti Taluk, Theni District and issue separate patta for the petitioner's land in her name.

For Petitioner : Mr. S. Loganathan

For Respondents : Ms. D. Farjana Ghoushia
Special Government Pleader
for R1 to R3
Mr. B. Narayan Ram for R4 to R6
No Appearance for R7

ORDER

This Writ Petition has been filed seeking a direction to the respondents 1 to 3 to survey and sub-divide the petitioner's land in S.Nos.141/2B and 142 situated at Kanavaipatti Village, Aundipatti Taluk, Theni District and issue separate patta in favour of the petitioner.

2. The learned counsel appearing for the petitioner submits that the petitioner has filed a suit for partition in the year 1996 before the



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Subordinate Court, Theni, and the said suit was decreed on 05.12.1997 and the final decree was passed on 25.01.2018 and delivery was effected on 12.06.2019. However, in view of the objections raised by some of the defendants in the suit, the petitioner could not identify her property and therefore, she has submitted an application to the second respondent 16.11.2022 to conduct survey and demarcate the boundaries. While so, on 20.04.2023, when the third respondent and his officials proceeded to survey her land, the private respondents prevented them from surveying the land. Hence, the petitioner has filed the present writ petition.

3. The learned Special Government Pleader appearing for the respondents 1 to 3 submits that the petitioner is not in a position to identify her property and therefore, the second respondent could not take a decision on the application of the petitioner.

4. The learned counsel appearing for the respondents 4 to 6 submits that the petitioner is not a party in the preliminary decree, however, she has entered only as a legal heir in the final decree proceedings.



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5. This Court considered the rival submissions made by both sides.

6. Admittedly, the petitioner has made an application before the second respondent to conduct survey in her land on 16.11.2022, however, the respondents 1 to 3 have not acted upon the application of the petitioner by referring to the objections received from the respondents 4 to 6. In the event, if there is any objection, the respondents ought to have conducted enquiry under Section 10 of the Tamil Nadu Survey and Boundaries Act. In this case, the petitioner claims that she has made a request for conducting survey only based on the final decree proceedings passed by the civil Court on the partition suit between the petitioner and the respondents 4 to 7 and after passing of the final decree proceedings, delivery has also been effected. While also, it is not appropriate on the part of the respondents 1 to 3 in not conducting the survey. Therefore, the respondents 1 to 3 are directed to conduct survey as per the final decree proceedings passed by the Sub Court, Theni, in I.A.No.545 of 2012 in O.S.No.281 of 2012 dated 25.01.2018, within a period of four weeks from the date of receipt of a copy of this order and the respondents 4 to 7



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are at liberty to submit their objections, if any, at the time of conducting enquiry.

7. Accordingly, this Writ Petition is allowed. There shall be no order as to costs.

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Index: Yes/No
Internet: Yes/No
ssb

To

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Theni.
2. The Tahsildar,
Aundipatti Taluk,
Theni District.
3. The Town Surveyor,
Aundipatti,
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B.PUGALENDHI, J.

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