



W.P(MD)No.28023 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.01.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.28023 of 2022

and

W.M.P.(MD)No.22099 of 2022

V.K.P.Kumarasamy

... Petitioner

Vs.

1.The Commissioner / Director of Land Reforms,
Ezhilagam, Chepauk,
Chennai 600 005.

2.The District Collector,
Dindigul District.

3.The Revenue Divisional Officer,
Kodaikanal, Dindigul District.

4.The Tahsildar,
Taluk Office, Kodaikanal,
Dindigul District.

5.The Head Surveyor,
Kodaikanal Taluk,
Kodaikanal,
Dindigul District.

6.R.Valliammal

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondent officials to conduct survey and fix boundaries for 2 acres of assignment land in actual possession and enjoyment of petitioner from the date of handing over of site without proper verification and fixing boundaries pursuant to the Assignment Order of the Sub Collector, Periyakulam in R.Dis. 30046/83 dated 31.12.1983 and D-Patta dated 12.2.1984 issued therewith by Special Tahsildar (Assignment) Kodaikanal, in favour of K.Periyasamy, S/o Kurattiyan, and consequently, direct the respondent officials to issue patta to the petitioner being legal heir of original assignee K.Periyasamy, S/o.Kurattiyan in occupation of assignment land for nearly 40 years since 1983 as per the representation of the petitioner dated 17.03.2020, 15.06.2021 & 22.08.2022.

For Petitioner : Mr.K.Appadurai

For Respondents : Mr.M.Lingadurai
Special Government Pleader for R1 to R5
: Mr.Jesu Subananth for R6

ORDER

Heard the learned counsel on either side.

2. The petitioner's father was assigned two acres of land in the year 1984.

The petitioner's father is now no more. All that the petitioner wants is that the authorities must conduct survey and demarcate the assigned land and also issue patta for the assigned land. Objection was raised and that is why, the sixth respondent came to be arrayed herein. I therefore directed issuance of notice to the private respondent.



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3. The learned counsel appearing for the private respondent states that the sixth respondent filed W.P.(MD)No.5770 of 2022 and this Court vide order dated 31.03.2022 passed the following order:-

“5. For the foregoing reasons, this Court directs the third respondent with the assistance of the fourth respondent to conduct survey and demarcate the boundaries pertaining to the property measuring 2 acres in S.No.1225/4, Gundupatti Village, Kodaikanal Taluk, Dindigul District in the presence of the petitioner and other legal heirs of the deceased Rajagopal and also in the presence of any other necessary party, whom the third respondent deems fit to put on notice and in case, the third respondent requires police assistance, he shall seek the same from the fifth respondent and the fifth respondent shall grant the same accordingly. The aforesaid exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.”

4. The learned counsel appearing for the private respondent would further state that pursuant to the said direction, survey was conducted and demarcation was also done. He would point out that the private respondent is already having patta in the name of the her husband. The copy of the patta standing in the name of the her husband has also been enclosed in the typed set of papers. He submitted that while the private respondent has no objection for accepting the writ prayer, her apprehension was that her possession should not be disturbed.



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

6. It is not possible for this Court to render any finding as to whether the land in the possession of the private respondent is a part of the land assigned in favour of the petitioner's father. I consciously refrain from going into the said factual aspects.

7. The learned Special Government Pleader brings it to my notice that the petitioner has not even approached the fourth respondent.

8. I therefore permit the petitioner to submit a formal application for conducting survey and measurement and also pay the requisite fee. If the petitioner's application is in order, the fourth respondent will conduct survey and demarcate the property assigned in favour of his father way back in the year 1984. While doing so, the survey authorities will issue notice in this regard to the private respondent herein and other interested persons if any. The copy of the survey report also will be served on all the parties concerned. Based on the survey report, patta will be issued in favour of the legal heirs of the original assignee. The entire exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.



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

30.01.2023

Index : Yes / No

Internet : Yes/ No

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G.R.SWAMINATHAN, J.

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