



WEB COPY



WP.No.34120 of 2024

In the High Court of Judicature at Madras

Dated : 21.11.2024

Coram :

The Honourable Ms.Justice P.T.ASHA

Writ Petition No.34120 of 2024 &
WMP.No.36935 of 2024

Mohan Kumar

...Petitioner

Vs

1.The District Superintendent of
Police, Salem District. Sale.

2.The Tahsildar, Mettur Taluk,
Salem, Sale District.

3.The Inspector of Police,
Mecheri Police Station,
Mettur Taluk, Salem District.

4.The Taluk Surveyor,
Mettur Taluk, Salem,
Salem District.

5.Ramachandran

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus forbearing respondents 1 to 4 from conducting survey and point out field boundaries of the property comprised in S.Nos.11/2C and 11/3 at M.Kallipatti Village, Mettur Taluk, Salem District till the disposal of O.S.No.98 of 2023 on the file of the Subordinate Court, Mettur, Salem by considering the petitioner's representation dated 19.10.2024.



WEB COPY



WP.No.34120 of 2024

For Petitioner : Mr.K.Prabhakaran
For R1 to R4 : Mr.A.Selvendran, SGP

ORDER

The petitioner has come forward with this writ petition to consider his representation dated 19.10.2024 to forbear respondents 1 to 4 from conducting a survey and pointing out the field boundaries of the property comprised in S.Nos.11/2C and 11/3 at M.Kallipatti Village, Mettur Taluk, Salem District till the disposal of O.S.No.98 of 2023 on the file of the Subordinate Court, Mettur, Salem.

2. Heard the learned counsel for the petitioner and the learned Special Government Pleader accepting notice for respondents 1 to 4.

3. The case of the petitioner is as follows :

() The properties comprised in S.F.No.11/1A measuring an extent of 1.37 acres bearing patta No.3028 and another extent of 1.38 acres comprised S.F.No.11/2B bearing patta No.838 situated at Kukkalpatti Kattuvalavu, M.Kallipatti Village, Mettur Taluk, Salem District absolutely belong to him by virtue of a registered settlement deed dated 16.12.2020 vide doc.No.4509 of 2020 on the file of the Sub-Registrar, Mecheri. Since then, the petitioner has been in continuous possession and enjoyment of the said properties.



WP.No.34120 of 2024

(ii) In respect of an extent of 6.59 acres in S.F.No.10 bearing patta No.1808 in the same village, the patta stood in the name of one Mr.Selvakumar. Likewise, in respect of an extent of 4.8 1/2 acres in S.F.No.12/3 in the same village, patta No.1066 stood in the name of one Mr.Rajan Babu and one Mr.Subramaniyam. Further, in respect of the property measuring 1 acre in S.F.No.11/2C situated at Sithikullannor Kattukalavu, Kottiyan Street, M.Kallipatti Village Mettur Taluk, Salem District, patta No.92 stood in the name of one Mr.Rathinam. The said Mr.Selvakumar, Mr.Rajan Babu, Mr.Subramaniyam and the fifth respondent belong to one family.

(iii) The road measuring 10 feet breadth was in existence in S.F. Nos.10, 12/3 and 11/2C for several decades and it was being used by the villagers including the petitioner. This road has been indicated in the prior documents. While so, on 10.10.2022, the petitioner was prevented by the fifth respondent and his family members from using the road. A panchayat was attempted to be conducted between both the fifth respondent and his family members as well as the petitioner. Further, the fifth respondent required the petitioner to sell his properties and it was refused. Since the petitioner was prevented from using the road, the petitioner filed O.S.No.98 of 2023 on the file of the Subordinate Court, Mettur to declare his easementary right to access the road to enter into his house and for a permanent injunction and it



WP.No.34120 of 2024

is pending adjudication.

WEB COPY

(iv) Thereafter, the fifth respondent and his brother, on the instigation of his family members, purchased a land measuring an extent of 1.40 acres comprised in S.Nos.11/2C and 11/3 situated at M.Kallipatti Village, Mettur Taluk, Salem District from one Mrs.Rathina under a registered sale deed vide doc.No.2618 of 2023 on the file of the same Sub-Registrar. This property has been purchased with the sole intent to prevent the petitioner's access to his property. This property belonging to the fifth respondent and his brother surrounds the pathway and they are attempting to fence the same.

(v) Despite being a party to the said suit, the fifth respondent filed W.P.No.27193 of 2024 before this Court seeking a Mandamus to survey and fence the boundaries in S.F.Nos.11/2C and 11/3 and issue a separate patta in his name. This Court disposed of the said writ petition on 20.9.2024 with a direction to the second respondent to consider the representation of the fifth respondent dated 12.8.2024 and pass final orders after issuing notice to the fifth respondent as well as respondents 4 to 11 therein or any other interested party.

(vi) Though this Court directed in the said writ petition that the second respondent should hold an inquiry before conducting a survey, no such notice was issued to the petitioner or any other interested party. In the said writ petition, the fifth respondent suppressed the



WP.No.34120 of 2024

fact of pendency of a civil suit. Therefore, the petitioner submitted a representation to respondents 2 and 4 and other officials disclosing reasons requesting not to take action in the light of the pendency of the said civil suit. However, there appears to be pressure exerted on the official respondents by the fifth respondent and his family members to conduct the survey. Hence, the petitioner has come forward with this writ petition.

4. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record.

5. It is to be taken note of that the fifth respondent managed to obtain orders of this Court on 20.9.2024 in W.P.No.27193 of 2024 by suppressing the pendency of the said civil suit.

6. Though a prayer has been made seeking to forbear respondents 1 to 4 from conducting the survey, in the light of the earlier orders passed by this Court in W.P.No.27193 of 2024 dated 20.9.2024, the writ petition is disposed of with a direction to the second respondent to take note of the objections given by the petitioner vide representation dated 19.10.2024. The second



WP.No.34120 of 2024

respondent shall take into consideration the pendency of the said civil suit for the relief of declaration of the easementary right of the petitioner to the said pathway and for a permanent injunction. It is made clear that by considering the representation dated 19.10.2024 and passing orders thereon, the second respondent would not be acting against the said order dated 20.9.2024 passed in W.P.No.27193 of 2024, since, in the said order, a learned Single Judge of this Court directed the second respondent to issue notice to all the interested parties. After considering the said representation dated 19.10.2024, the second respondent shall pass a speaking order within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected WMP is closed.

21.11.2024

To

- 1.The District Superintendent of Police, Salem District. Sale.
- 2.The Tahsildar, Mettur Taluk, Salem, Sale District.
- 3.The Inspector of Police, Mecheri Police Station, Mettur Taluk, Salem District.
- 4.The Taluk Surveyor, Mettur Taluk, Salem, Salem District.

RS



WEB COPY



WP.No.34120 of 2024

P.T.ASHA,J

RS

WP.No.34120 of 2024&
WMP.No.36935 of 2024

21.11.2024