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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2024

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.9682 of 2019

and

W.M.P.No.10292 of 2019

V.Selvapathy

... Petitioner

Vs.

1. The Tahsildar,
Palladam Taluk,
Tiruppur.

2. The Manager,
Canara Bank,
Assets Recovery Management Branch,
Coimbatore -2.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first respondent to survey and measure the land comprised in Survey No.325/1A Pongalur Village, Palladam Taluk, Tiruppur District measuring an extent of 48 cents to grant separate patta.

For Petitioner : Mr.V.Ramesh
for M/s.T.Thiyagarajan

For R1 : Mr.G.Ameedius,



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Government Advocate

For R2

: No appearance

ORDER

The Writ of Mandamus has been instituted to direct the first respondent to survey and measure the lands comprised in Survey No.325/1A Pongalur Village, Palladam Taluk, Tiruppur District measuring an extent of 48 cents to grant separate patta.

2. Mr.V.Ramesh, learned counsel for the petitioner would submit that a notice was issued by the Tahsildar, Palladam to the petitioner to conduct survey of the subject property, since a joint patta was originally granted to five persons, including the petitioner in Patta No.332. Since the portion of property of other joint pattadhars were attached by the Bank under the SARFAESI Act, the petitioner has initiated action to survey his portion of the land. The learned counsel for the petitioner would further submit that as per the Sale Deed, portion of the property belongs to the petitioner has been demarcated and there is no dispute and therefore, there is no impediment for the survey authorities to conduct survey and issue separate patta.



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3. No doubt, an application, if any, filed under Section 3 of the Tamil Nadu Patta Passbook Act, 1983 for grant of patta, the survey authorities are empowered to measure the land with reference to the documents and grant patta by following the procedures as contemplated under the Tamil Nadu Patta Passbook Act. To grant patta, an application under Section 3 of the Tamil Nadu Patta Passbook Act is entertainable only if ownership is established. In the event of any dispute, the parties must be relegated to approach the competent Civil Court of law.

4. In the present case, the petitioner has submitted an application to survey the land under the provisions of the Tamil Nadu Survey and Boundaries Act, 1923. The said act is a pre-independence enactment of the year 1923 and enacted for the purpose of settling the boundaries during the relevant point of time. More than 100 years lapsed and the Act has now being utilized only for the purpose of maintenance of revenue records and cannot be pressed into service for the purpose of resolving the boundary dispute between the parties. The scope of the Act cannot be expanded for the purpose of resolving the boundary disputes or to measure the private lands.



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5. Mr.V.Ramesh, learned counsel for the petitioner would rely on Sections 9 and 10 of the Act which provides power of a Survey Officer to determine and record a undisputed boundary and Section 10 stipulates power of a Survey Officer to determine and record a disputed boundary. Pertinently, both the provisions are inapplicable to conduct survey of the private lands, since from Sections 5 to 60 is applicable only to survey the Government lands and not the private lands. Therefore, by invoking Sections 9 and 10 of the Act, no application can be entertained for the purpose of survey of private properties and therefore, the very reliance placed by the learned counsel for the petitioner that the survey is to be conducted under Sections 9 and 10 is untenable and beyond the scope of the provisions of the Tamil Nadu Survey and Boundaries Act, 1923. When the entire chapter itself has been provided to survey the Government lands, the said powers cannot be utilized by the survey authorities for the purpose of conducting survey of the private lands.

6. No doubt, estate lands can also be surveyed under Chapter III of the Act. To conduct of survey of the estates under Chapter III of the Act, the State Government may direct the survey of an estate in certain cases. The



term "estate" has been defined under Section 3(i)(a).

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7. Therefore, even under Chapter III of the Tamil Nadu Survey and Boundaries Act, the State Government under Section 17 of the Act may direct in certain cases. Therefore, the estates falling under the definition of the Act alone is capable of being surveyed by the Government authorities and not the private lands or the boundary disputes or otherwise.

8. The scope of the survey of private lands at their instance or based on the their application is limited under the provisions of the Tamil Nadu Survey and Boundaries Act. For the purpose of maintenance of revenue records, such survey is be conducted more specifically for grant of patta under the provisions of the Tamil Nadu Patta Passbook Act, 1983. That being the scope of the provisions of the Act, the case of the petitioner, whether falling under the provisions of the Tamil Nadu Patta Passbook Act or there is any boundary dispute between the parties are to be ascertained by the competent authorities and suitable decision is to be taken on merits and in accordance with law.



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9. It is made clear that in the event of identification of any dispute then the parties are to be relegated to approach the competent Civil Court of law.

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10. With these observations, the Writ Petition stands disposed of.

Consequently, the connected Miscellaneous Petition is closed. No costs.

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Index : Yes

Speaking order

Neutral Citation : Yes

To

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Tiruppur.
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S.M.SUBRAMANIAM, J.

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