



W.P(MD)No.655 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.02.2024

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Writ Petition(MD)No.655 of 2024
and
W.M.P(MD)Nos.662 & 663 of 2024

M.Rajarathinam

... Petitioner

-Vs-

- 1.The District Collector,
O/o the District Collector,
Trichy District.
- 2.The District Revenue Officer,
O/o the District Revenue Officer,
Trichy District.
- 3.The Commissioner,
Trichy Corporation,
Trichy District.
- 4.The Assistant Director,
Department of Survey,
Trichy District.
- 5.The Revenue Divisional Officer,
O/o the Revenue Divisional Officer,
Trichy District.



W.P(MD)No.655 of 2024

WEB COPY

6.The Tahsildar,
Trichy West Taluk,
Trichy District.

7.M.Kandasamy

... Respondents

PRAYER:- Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order of the 6th Respondent in Na.Ka.A1/1356/2023 dated 27.11.2023 and quash the same and consequently directing the respondents not to conduct survey in the petitioner's property comprised in T.S.No.5/1, 5/24 to 5/33, 5/39, 5/41 and 5/44 in Block No.21 of Abisekapuram of Trichy Town of Trichy District which is the subject matter of the Suit in O.S.No.235/2019 before the Honourable District Munsif Court, Trichy.

For Petitioner : Mr.S.Ramsundarvijayraj

For Respondents : Mr.D.Gandhiraj
Spl. Govt. Pleader for R1, R2, R4 to R6

Mr.K.R.Kishore Ram for R3
Mr.Niranjan S.Kumar for R7



W.P(MD)No.655 of 2024

WEB COPY

ORDER

This writ petition is filed seeking for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order of the 6th Respondent in Na.Ka.A1/1356/2023 dated 27.11.2023 and quash the same and consequently, direct the respondents not to conduct survey in the petitioner's property comprised in T.S.Nos.5/1, 5/24 to 5/33, 5/39, 5/41 and 5/44 in Block No.21 of Abisekapuram of Trichy Town of Trichy District which is the subject matter of the suit in O.S.No.235 of 2019 before the District Munsif Court, Trichy.

2. Heard the learned counsel appearing for the petitioner, the learned Special Government Pleader appearing for the respondents 1, 2, 4 to 6, the learned counsel appearing for the 3rd respondent and the learned counsel appearing for the 7th respondent and perused materials available on record.

3. According to the petitioner, as per re-settlement Register of the year 1930, the lands measuring an extent of 28.0445 hectares sq.meters comprised in old T.S.No.4/2, Block No.21, Ward-L situated at K.Abisekapuram Village, Tiruchirappalli Taluk and District were jointly



W.P(MD)No.655 of 2024

entered in the name of 27 Aadhi Pattadarars. During resurvey in the year 1968, the said lands were reclassified as New T.S.No.5 measuring an extent of 69.27 Acres. One M.Syed Mohamed has purchased the 1.28 Acres by way of a valid registered sale deed, dated 28.08.1968 from one Thangaponnu, who was the daughter of 14th Aadhi Pattadarars, namely, Veerayee. The wife of the said M.Syed Mohamed, by name, M.A.Razyabegam has also purchased 0.86 cents by way of a valid registered sale deed dated 18.10.1968 from one Singu Cholariyar, who was one of the legal heirs of 12th Aadhi Pattadarar, by name, Valliammal. After the death of the said M.A.Razyabegam, her husband, M.Syed Mohamed and her daughters Sharibabi, Shamina Kamal and Mehajabeen Ansar jointly got the property to an extent of 2.14 Acres and they were in possession and enjoyment of the same. The said Syed Mohamed has given a part of the property to an extent of each 1418 square metre out of total extent of 2.14 Acres to his sister's son, namely, Sheik Mydeen and Jabarullah by way of a valid Hiba dated 10.04.1975. The said Syed Mohamed has obtained the registered General Power of Attorney deed dated 06.04.1984 as Document No.128/1984 from Sharibabi, Shaminakamal, Mehajabeen Ansar, Sheik Mydeen and Jabarullah in respect of the properties. Thereafter, the said



W.P(MD)No.655 of 2024

Syed Mohamed, after getting permission from the Local Body Administration and by following legal procedures, has made lay out in the said properties to an extent of 2.14 Acres and developed as house plots.

4. According to the petitioner, he has purchased the a plot No.20 to an extent of 2400 sq. ft. from the said Syed Mohammed and others vide registered sale deed dated 18.06.1990 Document No.3106/1990. From the date of purchase, he is in exclusive possession and enjoyment of the same. While so, he came to understand that the 7th respondent, namely, Kandasamy, having highly influenced with the Revenue Officials illegally prepared a new sketch in the year 2002 through which, the 7th respondent has purchased the property by way of 10 sale deeds from the different unrelated persons. Since 1980, the people were built 300 houses and also residing. However, the 7th respondent has mentioned in the sale deeds that the property as land. Hence, the petitioner and others have given so many petitions to the concerned authorities, however, no action was taken. The 7th respondent has influenced with the Revenue Officials and got pattas illegally in respect of his incomplete sale deeds of the properties. The petitioner himself and the representative of the Raja Raja Chozhan Nagar



W.P(MD)No.655 of 2024

Makkal Nala Sangam and others have given the petitions on various dates to the Revenue Divisional Officer, Trichy for granting separate patta in respect of their properties. The Revenue Divisional Officer, has conducted an enquiry and passed a common order dated 26.03.2014 directing the Tahsildar, Trichy West Taluk to issue separate patta in favour of the petitioner and others. Against which, the 7th respondent has prepared revision before the District Revenue Officer and the District Revenue Officer has cancelled the order dated 26.03.2014 and directed to approach the civil Court. While so, the Special District Revenue Officer, Land Acquisition (National Highways) in his proceedings dated 28.11.2006 has acquired the land to extent of 18.068 square meters out of total extent of 69.27 Acres and the said Special District Revenue Officer has referred the matter to the Land Acquisition Tribunal (II Additional Sub Judge), Tiruchirappalli for the purpose of settlement of the compensation. The 7th respondent and his henchmen have tried to dispossess the petitioner from the subject property. Hence, the petitioner has filed the suit in O.S.No.160 of 2019 before the District Judge, Trichy for the relief of declaration to declare the petitioner as the absolute owner of the suit property. In these circumstances, the 7th respondent has filed the W.P(MD)No.24382 of 2022



W.P(MD)No.655 of 2024

before this Court to survey the subject properties. This Court, by order dated 24.02.2023, disposed of the same directing to survey upon notices to the parties. Hence, the petitioner has filed W.P(MD)No.18608 of 2023 not to conduct survey. This Court, by order dated 02.08.2023 disposed of the said writ petition and directed the petitioner to file his objections. However, to his shock and surprise, the third respondent had passed the impugned order to survey the land of the petitioner.

5. The learned counsel for the petitioner has contended that when the suit is pending, the impugned order is passed, which is illegal. Hence, the impugned order is liable to be set aside.

6. On a perusal of the impugned order, it is seen that as per order of this Court dated 24.02.2023, notice has been issued to the interested parties by fixing the date to survey the land as 15.05.2023, however, it was adjourned since some objections have been raised by six persons. Further, as per the order dated 12.05.2023 made in W.P(MD)No.11836 of 2023, notice has to be issued to the interested parties for filing objections. If the said objections are rejected, six weeks time has to be given to them to approach



W.P(MD)No.655 of 2024

WEB COPY

the competent civil Court. Hence, as per the same, notice has been issued to six persons and enquiry has been conducted and some objections have been raised.

7. Further, in the impugned order, it has been clearly stated that the 7th respondent filed a suit in O.S.No.2308 of 2004 before the District Munsif Court, Tiruchirappalli, in respect of the subject properties and obtained a decree in favour of him. The 6th respondent/Tahsildar after perusing the entire materials, has clearly passed the impugned order.

8. Therefore, I am of the view that the impugned order has been passed only to measure the properties and no order has been passed to mutate the any revenue records and this Court is of the view that there is no perversity in the impugned order passed to survey the subject properties. Hence, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

14.02.2024

NCC : Yes/No
Index : Yes/No
Internet : Yes
skn



W.P(MD)No.655 of 2024

WEB COPY To

- 1.The District Collector,
O/o the District Collector,
Trichy District.
- 2.The District Revenue Officer,
O/o the District Revenue Officer,
Trichy District.
- 3.The Commissioner,
Trichy Corporation,
Trichy District.
- 4.The Assistant Director,
Department of Survey,
Trichy District.
- 5.The Revenue Divisional Officer,
O/o the Revenue Divisional Officer,
Trichy District.
- 6.The Tahsildar,
Trichy West Taluk,
Trichy District.



WEB COPY



W.P(MD)No.655 of 2024

V.BHAVANI SUBBAROYAN, J.

skn

Writ Petition(MD)No.655 of 2024
and
W.M.P(MD)Nos.662 & 663 of 2024

14.02.2024