

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.01.2024

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.1819 of 2024

Siva Senthil Kumar
through his power of attorney
M.Huthaiba

... Petitioner

Vs

1.The Assistant Commissioner,
Tirunelveli Corporation,
Melapalayam Region,
Melapalayam,
Tirunelveli District.

2.The Tahsildar,
Palayamkottai Taluk,
Tirunelveli District.

3.The Taluk Surveyor (Land Survey),
Palayamkottai Taluk,
Tirunelveli District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to survey the petitioner's principal land in S.No.7/1 to an extent of 55.50 cents situated at Melapalayam Region, Ward BP, Block 31, Kulavangarpuram Villave, Palayamkottai Taluk, Tirunelveli District as per the release deed document No.5671/2023 dated 27.06.2023 and lay survey stones within a time frame as stipulated by this Court.

For Petitioner	: Mr.A.Srinivasan
For R1	: Mr.M.Anitha
For R2 & R3	: Mrs.K.Christy Theboral Additional Government Pleader

ORDER

The petitioner has prayed for issuance of a Writ of Mandamus, directing the respondents to survey the petitioner's principal land in S.No.7/1 to an extent of 55.50 cents situated at Melapalayam Region, Ward BP, Block 31, Kulavangarpuram Villave, Palayamkottai Taluk, Tirunelveli District as per the release deed document No.5671/2023 dated 27.06.2023 and lay survey stones within a time frame as stipulated by this Court.

2. By consent, this writ petition is disposed of at the admission itself.

3.Heard learned counsel appearing for the petitioner, the learned counsel appearing for the first respondent and the learned Additional Government Pleader appearing for the respondents 2 & 3.

4. The petitioner's principal namely Siva Senthil Kumar had executed a General Power of Attorney deed in favour of one M.Huthaiba through a registered document 5930/2023 dated 05.07.2023 and he filed this writ petition in the capacity

of power of attorney holder on behalf of his principal.

5. The case of the petitioner is that the land in S.No.7/1 to an extent 55.50 cents situated at Melapalayam Region, Ward BP, Block 31, Kulavangarpuram Village, Palayamkottai Taluk, Tirunelveli District had been vested in his Principal's grand father namely Muthaiah through a Registered Document No.2442/1946 on 06.07.1946 for a valid consideration. Subsequently, his principal's grand father died on 13.07.1974 after his demise, his principal's grand mother was in enjoyment over the land. Subsequently, his principal's grand mother had also died on 25.06.1979. The same was vested with his mother by succession and his mother Arunachala Vadivu also passed away on 30.09.2004. After that, his principal namely Siva Senthil Kumar along with his brothers enjoyed the above said properties. Subsequently, his principal's brothers and sister had executed a registered release deed No.5671/2023 in favour of his principal on 28.06.2023. Subsequently, his principal is enjoying the lands without any interference and regularly paying the tax. Since the petitioner's principal is residing at Chennai, he is not able to visit the property regularly, he executed the registered general power deed in favour of the petitioner through a deed No.5930/2023 dated 05.07.2023 and he has also further instructed him to take steps to survey the lands and put up the survey stones. As per the instruction given his principal, he has paid process fee for survey on 10.11.2023 and also made a representation to the respondents on 15.11.2023 to survey the land. Even after receipt

of his representation, the respondents have not taken any effective steps to survey the lands. Hence, the petitioner has approached this Court by way of filing the present Writ Petition for the relief stated supra.

6.The learned Additional Government Pleader appearing for the respondents 2 & 3 would submit that the respondents verified with the Town Survey Register and as per the Town Survey register, riotwary land to an extent of 0.75.73 hectare was registered in the names of Malaiyappa Nadar, Thillami Nadar, Mariamman, Muthammal, Velayuthanadar, Velammal, Shanmugam, S/o.Samy, Arumaga Nainar, Josi Jebasundar, S/o.Savul David, Secretary, Tirunelveli Diocese Trust Association, Palayamkottai and A.Savul David.

7. It is seen from the records that the petitioner's father name Muthaiah stands in patta as serial No.4, but it has been wrongly mentioned as Muthammal in the proceedings submitted by the Additional Government Pleader before this Court.

8. In view of the above, considering the limited scope of the prayer sought for by the petitioner, without going into the merits of the matter, this Court directs the respondents to consider the petitioner's application dated 15.11.2023 and after issuing notice and affording an opportunity to the parties concerned, conduct survey in their presence and lay survey stones in S.No.7/1 to an extent of 55.50 cents

situated at Melapalayam Region, Ward BP, Block 31, Kulavangarpura Village, Palayamkottai Taluk, Tirunelveli District and pass orders in accordance with law and communicate the decision taken by the respondents to the petitioner and others concerned. Such exercise shall be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order.

9.This Writ Petition stands disposed of with the above directions. No costs.

Index : Yes/No

Internet : Yes/No

am

31.01.2024

To

1.The Tahsildar,
Palayamkottai Taluk,
Tirunelveli District.

2.The Taluk Surveyor (Land Survey),
Palayamkottai Taluk,
Tirunelveli District.

V.BHAVANI SUBBAROYAN, J.

am

W.P(MD)No.1819 of 2024

31.01.2024