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W.P(MD)No.2441

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.02.2024

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.2441 of 2024
and
W.M.P(MD)Nos.2455 & 2456 of 2024

K.Periyakaruppan

... Petitioner

Vs

1.The District Revenue Officer,
Madurai District.

2.The Revenue Divisional Officer,
Melur Taluk,
At Narasingampatti,
Madurai District.

3.The Tahsildar,
Melur Taluk,
Madurai District.

4.Head Surveyor,
Melur Taluk Office,
Melur, Madurai District.

5.Geetha

6.Thevendra Boopathy

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the second respondent by his proceedings in Na.Ka.No.9176/2023/A1, dated 11.01.2024 and quash the same as illegal and



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consequently direct the third and fourth respondents to conduct survey in the petitioner's property in survey number 560/1A1 situated at Therkutheru Village, Melur Taluk, Madurai District within a time stipulated by this Court.

For Petitioner : Mrs.J.Balameenakshi
For R1 to R4 : Mrs.K.Christy Theboral
Additional Government Pleader

ORDER

The petitioner has filed this writ petition seeking to quash the impugned order passed by the second respondent vide proceedings in Na.Ka.No.9176/2023/A1, dated 11.01.2024 and quash the same as illegal and consequently, direct the third and fourth respondents to conduct survey in the petitioner's property in survey number 560/1A1 situated at Therkutheru Village, Melur Taluk, Madurai District within a time stipulated by this Court.

2.Heard Mrs.J.Balameenakshi, learned counsel appearing for the petitioner and Mrs.K.Christy Theboral, learned Additional Government Pleader appearing for the respondents 1 to 4.

3. Considering the nature of the order proposed to be passed, protecting the interest of the respondents 5 & 6, notice to the respondents 5 & 6 is dispensed with.

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



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4. According to the petitioner, the wet land property in survey number 560/1 to an extent of 1.11.50 hectare is originally belongs to Mr.M.Pattabiraman, S/o.M.P.Meenakshisundaram. The said land was maintained by his family as cultivating tenant. Thereafter, Mr.P.Chandrasekaran has claiming the above said property as the legal heir of the above said Mr.Pattabiraman and patta has been changed in his name in Patta No.718. The said Pattabiraman and Mr.Chandrasekaran sold the portion of the land to one Mr.Ayyappan, S/o.K.Ramakrishnan to an extent of 50 cents out of 2.76 cents in document number 1756/2015, dated 29.09.2015. After the death of the said Mr.Ayyappan, his wife Mrs.Selvi has sold the property to the 5th respondent which was purchased by her husband in survey number 560/1 to the eastern portion of the land to an extent of 50 cents in document No.2099/2019, dated 10.10.2019. After the sale, the survey number 560/1 is sub-divided as 560/1A, 1B. The survey number 560/1B to an extent of 0.20.00 Ares is allotted to the 5th respondent and issued patta number 4071 in survey number 560/1B in favour of the 5th respondent. She enjoyed the property and she purchased some other properties around the above said property. On 11.11.2021, the petitioner purchased the property from the said Pattabiraman and Mr.Chandrasekaran in survey number 560/1A to an extent of 1 Acre 25 cents out of 2 Acre 26 cents in document number 3114/2021. After the purchase, the petitioner's property was sub-divided as 560/1A1 and patta issued in patta number 718 to an extent of 50.60 Ares. Thereafter, he



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purchased the remaining portion of the property from the said Mr.Pattabiraman and Mr.Chandrasekaran in survey number 560/1A to an extent of 40.90 Ares in document number 4175/2022, dated 02.12.2022. After the purchase, the said survey number is divided as 560/1A2 and patta issued in his favour in patta number 4487 and he enjoyed the property.

5. According to the petitioner, the respondents 5 & 6 are trying to grab the property by laying the road on his land as the 6th respondent is working as the Additional Commissioner in the State Tax Department, Tamilnadu Government and his money and muscle power, he is trying to grab the property. In these circumstances, the 5th respondent made a false complaint to the Sub-Inspector of Police, Melur Police Station on 25.10.2023 and issued summons to the petitioner and he appeared before the police and explained the property dispute. On the very same day, the petitioner made a complaint against the 5th respondent and filed CSR No. 1453/2023. On 26.10.2023 the petitioner and the 5th respondent appeared and both are gave an assurance that they will not made any dispute between them still conducting the survey and fix boundaries. The fifth respondent made a false representation to the second respondent to remove the encroachment made on 5th respondent's property by the petitioner and the second respondent has not issued summon to the petitioner and without giving an opportunity to defend his case and giving any notice, the second respondent has issued a memo.



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6. According to the petitioner, the second respondent failed to note that he directed the Revenue Inspector, Village Administrative Officer to remove the fencing from the petitioner's property but without including him in the impugned order. In these circumstances, the respondents have not issued the impugned order to the petitioner, but he mentioned the petitioner's survey number and directed the Revenue Inspector, Melur and the Village Administrative Officer, Therkutheru Village to inspect the property and remove the encroachment and report the same. Hence, the Revenue Inspector, Malur and the Village Administrative Officer, Therkutheru Village are came to the petitioner's property on 27.01.2024 and trying to remove the petitioner's fencing stones. Therefore, the petitioner has made a representation to the first respondent on 30.01.2023 and also the respondents 2 & 3 requesting not to take any action without conducting an enquiry or the survey, but the respondents have not taken any action. Challenging the said order of the second respondent, dated 11.01.2024, the petitioner has approached this Court by way of filing the present Writ Petition for the relief stated supra.

7. It is seen from the impugned order that the Revenue Divisional Officer, Melur has directed the Revenue Inspector, Melur and the Village Administrative Officer to inspect the said field and remove the said road blockage and submit the report to the authority.



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8. The learned Additional Government Pleader appearing for the respondents 1 to 4 would submit that the second respondent has not passed any adverse order and only directed the authorities to remove the obstruction if any, to enable the parties to do their agricultural work without any obstructions.

9. In view of the above, the Revenue Divisional Officer, Melur is directed to send notice to all the parties concerned for conducting an enquiry. The concerned parties are directed to approach the Revenue Divisional Officer, Melur along with necessary documents to prove their title and the authorities are directed to conduct an enquiry in accordance with law after affording an opportunity to all the parties concerned and pass appropriate orders on merits and in accordance with law, within a period of sixteen (16) from the date of receipt of a copy of this order.

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

Index : Yes/No
Internet : Yes/No
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To

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V.BHAVANI SUBBAROYAN, J.

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