



W.P(MD)No.12036 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.02.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.12036 of 2020

and

W.M.P.(MD)No.10378 of 2020

Mariappan

... Petitioner

Vs.

1.The District Collector,
Karur District,
Karur.

2.The Tahsildar,
Karur Taluk,
Karur District.

3.The Heard Surveyor,
Karur District,
Karur.

4.The Taluk Surveyor,
Karur Taluk,
Karur District.

5.The Village Administrative Officer,
LNS Village, Karur Taluk,
Karur District.

6.M.Chandrasekaran (Died)

7.Vijalayalakshmi

8.Kannan



W.P(MD)No.12036 of 2020

9.Subashini.

... Respondents

(R7 to R9 are substituted vide order dated 03.01.2024 in W.M.P.(MD)No.4016 of 2023 in W.P.(MD)No.12036 of 2020 by GRSJ)

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned notice passed by the 2nd Respondent in A.Ko.Ma.No./191/2020, dated 01-09-2020 and quash the same.

For Petitioner : Mr.K.Guhan

For Respondents : Mr.K.S.Selvaganeshan,
Addl. Government Pleader for R1 to R5.
Mr.I.Velpradeep for R7 to R9.

ORDER

Heard both sides.

2.The petitioner and his siblings namely, Rajiv and Bharathi owned lands in Lakshmi Narayana Samuthiram Village. One Chandrasekaran purchased 1/4th share from the petitioner's siblings. Thereafter, Chandrasekarn also filed partition suit in O.S.No.29 of 2019 on the file of the District Court, Karur. Parallelly, he filed a petition before the Tahsildar, Karur for surveying the lands purchased by him. Acting on the application submitted by Chandrasekaran, the



W.P(MD)No.12036 of 2020

Tahsildar, Karur Taluk issued the impugned survey notice to the petitioner.

Challenging the same, the present writ petitioner has been filed.

3.During the pendency of this writ petition, Chandrasekaran passed away and his legal heirs have come on record.

4.After hearing the learned counsel on either side, I am more than satisfied that the impugned survey notice has to be set aside. This is because Chandrasekaran admittedly had purchased only undivided share from the petitioner's siblings. In fact, the petitioner would even question the competence of the vendor to execute the sale deed in favour of Chandrasekaran. Even if I assume that the petitioner's siblings are having share in the property, as the purchaser, Chandrasekaran can only ask for partition. In fact, he had rightly instituted a partition suit. When civil suit pending, the question of conducting survey will not arise at all.

5.In this view of the matter, the impugned survey notice is set aside. The private respondents herein namely, the respondents 7 to 9 are at liberty to file an appropriate interlocutory applications so as to come on record in O.S.No.29 of 2019 on the file of District Court, Karur. As and when, such applications are



W.P(MD)No.12036 of 2020

filed, the same shall be allowed. After the I.As are allowed and the respondents 7 to 9 are brought on record as plaintiffs in the said suit, the learned Trial Judge shall dispose of the suit itself on merits and in accordance with law within a period of six months thereafter. I make it clear that this direction to dispose of the suit will not foreclose the defences of the writ petitioner. All the contentions of the writ petitioner are left open.

6. With this direction to the learned Trial Judge, this writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

12.02.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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Note: The Registry to mark a copy of this order to the learned District Judge, Karur.

To:

1. The District Collector,
Karur District, Karur.

2. The Tahsildar,
Karur Taluk,
Karur District.



W.P(MD)No.12036 of 2020

3.The Heard Surveyor,
Karur District,
Karur.

4.The Taluk Surveyor,
Karur Taluk,
Karur District.

5.The Village Administrative Officer,
LNS Village, Karur Taluk,
Karur District.

Copy to:-

The District Court,
Karur.



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W.P(MD)No.12036 of 2020

G.R.SWAMINATHAN, J.

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W.P(MD)No.12036 of 2020

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