



W.P.(MD) No.18928 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.04.2024

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.18928 of 2018

M.Mokkachamy

... Petitioner

Vs.

1.The Commissioner,
Theni-Allinagaram Municipality,
Theni - 625 531.

2.The Surveyor,
Office of the
Theni-Allinagaram Municipality,
Theni - 625 531.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Mandamus directing the first respondent to order for surveying the vacant land of the petitioner in Survey No.235/3, measuring 15 ½ cents and 61 sq.ft. situated at Forest Road 7th Street, Theni as per the FMB Sketch by considering the representation dated 02.08.2018 of the petitioner.

For Petitioner : Mr.G.Vishnuram

For R1 : No appearance

For R2 : Mr.J.John Rajadurai
Government Advocate



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ORDER

This Writ Petition has been filed for issuance of a Writ of Mandamus directing the first respondent to order for surveying the vacant land of the petitioner in Survey No.235/3, measuring to an extent of 15 ½ cents and 61 sq.ft. situated at Forest Road 7th Street, Theni, as per the FMB Sketch by considering the petitioner's representation dated 02.08.2018.

2. Although this Writ Petition is of the year 2018, the respondents have not filed any counter affidavit. The learned Government Advocate for the second respondent would submit that he has instructions to report that neither the petitioner is having patta over the land nor is in possession of the land and the land was in possession of Periyasamy Servai's sons namely, Sundaram and Veerasamy Servai and Chinnandi Thevar's son namely, Karuppa Thevar and that one Surulivel, Muruganantham, Selvi and Baskaran filed a petition before the District Revenue Officer, seeking rights over the property, based on the documents.



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3. Although the aforesaid submission has been made by the learned Government Advocate for the second respondent, this Writ Petition cannot be dismissed as prayed for by him. There are disputed questions of facts which also cannot be determined in a summary manner particularly when the respondents have not filed counter affidavit. This Writ Petition cannot be dismissed based on the communication addressed by the Government which was produced by the learned Government Advocate for the second respondent before this Court today.

4. Be that as it may, the petitioner claims ownership of the property pursuant to the Sale Deed dated 28.01.1998 registered as Document No. 275/1998 on the file of the Sub Registrar Officer, Theni. Considering the same, the respondents are directed to consider the petitioner's representation dated 02.08.2018 and pass appropriate order on merits and in accordance with law, within a period of 6 weeks from the date of receipt of a copy of this order. In case there is a title dispute, the petitioner may be directed to work out his remedy before the civil court.



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WEB COPY 5. Accordingly, this Writ Petition stands disposed of. No costs.

01.04.2024

Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order

JEN

Copy To:

The Commissioner,
Trichirappalli City Municipal Corporation,
Trichirappalli.



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C.SARAVANAN, J.

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