



W.P.(MD) No.18593 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.08.2024

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.18593 of 2024

Ganesa Moorthy

.. Petitioner

Vs.

1.The Tahsildar,
Ramanathapuram Taluk,
Ramanathapuram District.

2.B.Baskaran

.. Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, to direct the 1st respondent to survey the petitioner's land in Survey No.204/4A1A, situating in Soorankottai Village, Ramanathapuram Taluk, Ramanathapuram District, based on the petitioner's application dated 20.02.2024 and demarcate the four boundaries of the above property within the time limit that may be stipulated by this Court.

For Petitioner	:Mr.S.Jeyakarthik
For R1	:Mr.B.Saravanan, Addl. Govt. Pleader



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ORDER

This writ petition is filed praying for issuance of a writ of Mandamus directing the first respondent to survey the petitioner's land in Survey No.204/4A1A, situated in Soorankottai Village, Ramanathapuram Taluk, Ramanathapuram District, based on the petitioner's application dated 20.02.2024 and demarcate the four boundaries of the above property within the time limit that may be stipulated by this Court.

2.The case of the petitioner is that the land comprised in Survey No.204/4 was purchased originally by his paternal uncle viz., Sethu Raja under a registered sale deed, dated 11.07.1949. Since then the said land was in possession and enjoyment of his forefathers. Thereafter, the said Sethu Raja executed a relinquishment deed, dated 06.07.1970 in favour of his brother viz., Kasinathan, who is the father of the writ petitioner herein, to an extent of 1 acre, out of the total extent of 2 acre 8 cents and separate patta was also granted in favour of the petitioner's father. The petitioner's father has thereafter executed a registered settlement deed, dated 08.09.2011 in favour of the petitioner in respect of an extent of 12



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½ cents from out of these lands and patta was also mutated in his name in Patta No.2115.

3.While so, the second respondent, with an intention to grab the petitioner's property, filed a suit in O.S.No.65 of 2017 against the petitioner and others for declaration and permanent injunction in respect of the land in Survey No.204/4A and 204/4B. The suit was dismissed on 22.10.2021. In the meanwhile, the other paternal uncle of the petitioner viz., Sethupandian had filed a suit in O.S.No.77 of 2003, which was also dismissed by judgment and decree dated 03.03.2017. Against which an appeal has been preferred before the Sub-Court, Ramanathapuram in A.S.No.41 of 2017 and the same is pending and no interim order had been granted.

4.In such circumstances, the second respondent, who had unsuccessfully contested the suit, with an intention to grab the petitioner's property, filed W.P(MD)No.21715 of 2022 before this Court for cancelling the relinquishment deed, dated 06.07.1970 executed in



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favour of the petitioner's father. The said petition was dismissed by the District Registrar, Ramanathapuram. As a result of all these proceedings, the title of the petitioner cannot be questioned by the second respondent. The petitioner, therefore, requested that the first respondent to survey his property. However, no action has been taken, the present writ petition is filed.

5. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the first respondent.

6. There is no quarrel that the property in question, is the part of a larger extent of land, which has been relinquished in favour of the petitioner's father by this brother and thereafter, the petitioner's father had settled the property, which is the subject matter of the writ petition. The records would also show that one Sethupandian, who is the paternal uncle of the petitioner, had instituted the suit in O.S.No.77 of 2003 against the petitioner's father for declaration and for permanent injunction. The said suit was dismissed. However, the fact remains that



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the paternal uncle had recognized the petitioner's father's right to the property and the learned District Munsif, Ramanathapuram, had observed that one Sethuraja Servai had executed a release deed in favour of the petitioner's father. The other suit in O.S.No.65 of 2016 has been filed by one Baskaran against the petitioner's father and others for declaration and permanent injunction and the said suit was also dismissed for default. The plaintiff in the suit in O.S.No.77 of 2008 has filed an appeal and the same is pending.

7.However, from the above records, it is clear that as on date, the petitioner's title to the property remains unchallenged and therefore, there is no impediment to the respondents for disposing the writ petition. Hence, the writ petition is disposed of with the following directions:

(i)The petitioner shall submit all the relevant documents of title including the patta standing in his name.

(ii)The Survey Authority shall issue notice to the petitioner as well as the adjacent land owners and also to the interested persons, if any.

(iii)If the respondents receive any objections from the adjacent



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land owners / interested persons, the same shall be considered.

(iv) If required the survey authority is empowered to seek aid of the jurisdictional police and the jurisdiction police are mandated to grant police protection.

(v) It is made clear that at the end of the survey exercise, survey stones alone can be installed and such survey stones shall not be displaced till the final result in the suit in O.S.No.77 of 2003 which judgment is now pending in appeal. The exercise of survey and demarcation undertaken pursuant to the direction of this Court can never result in dispossession of any party. No person shall put up fencing at the time of survey by using police aid.

(vi) The survey authority will conclude the entire exercise one way or the other within a period of six weeks, after service of notice on the interested persons.

(vii) A copy of the survey report along with sketch will be served on the petitioner. No costs.

19.08.2024

NCC : Yes/No

Index : Yes/No

Internet : Yes



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To

- 1.The Tahsildar,
Ramanathapuram Taluk,
Ramanathapuram District.



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P.T.ASHA, J.
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