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W.P(MD)No.21962 of 21

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 15.07.2024

Delivered on : 23.08.2024

CORAM :

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.P(MD)No.21962 of 2021

and

W.M.P(MD)Nos.18536 and 18538 of 2021

K.Mohan

: Petitioner

Vs.

1.The State Information Commissioner,
Tamil Nadu State Information Commission,
No.19, Government Garden Village,
Bornpettai, Nanthanam, Chennai – 600 035.

2.The Tahsildar,
Palani Taluk, Dindigul District.

3.The Commissioner,
Palani Municipality,
Palani, Dindigul District.

4.The Taluk Surveyor,
Palani Taluk Office,
Palani, Dindigul District.

5.S.Sivagnanam

: 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 of the first respondent case No.NC2241/D/20/SA858/D/2020, dated 07.10.2021 and quash the same, consequently, for bearing the respondents 2 to 4 from the conduct the survey in petitioner's land in Block No.26, Ward No.4, T.S.No.3/2, Palani Town, Dindigul District till the disposal of the petitioner UDR appeal, dated 24.06.2014 pending before the District Revenue Officer, Dindigul.

For Petitioner : Mr.S.Karthik

For Respondents : Mr.K.K.Senthil,
Standing Counsel, for R1.

: Mr.V.Om Prakash,
Government Advocate, for R2 to R4.

: Mr.L.P.Maurya, for R3.

: Mr.S.Sivagnanam,
Party-in-person, R5.

ORDER

The Writ Petition is directed against the order, dated 07.10.2021 passed by the first respondent and for consequential directions, forbearing the respondents 2 to 4 from conducting survey in petitioner's land in Block No.26, Ward No.4, T.S.No.3/2, Palani Town, Dindigul District till the disposal of the petitioner UDR appeal, dated 24.06.2014 pending before the District Revenue Officer, Dindigul.



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2. The case of the petitioner is that the property comprised in T.S.No. 3/2, Old Survey No.10 to an extent of 0.0462.5 square meter at Block No.26, Ward No.4, Palani Town, Dindigul District originally belonged to his father R.M.Krishnan and after his death on 22.05.1965, the petitioner and his sisters entered into a partition deed vide document No.2077/2010, wherein, the petitioner was allotted with an extent of 8.19 cents in the property in dispute and the remaining three cents were commonly enjoyed by all of the legal heirs of his father; that during UDR settlement patta has been given to one Saminathan mistakenly; that the petitioner, after coming to know about the same, has given an application to the Revenue Officials for cancelling the wrong entry made in the patta and the same was enquired; that the then Tahsildar has filed a report in favour of the petitioner; that the District Revenue Officer, Dindigul has posted the matter on various dates for more than two years; that thereafter, the fifth respondent has given a letter stating that he has filed a writ petition in W.P.(MD)No.22702 of 2015 and the same was pending; that the District Revenue Officer is not a party to the Writ Petition; that the District Revenue Officer has passed an order, dated 24.10.2016 stating that enquiry will not be conducted in view of the pendency of the writ petition; that the petitioner has filed a writ petition in



W.P.(MD)No.7208 of 2017 for quashing the order of the District Revenue Officer, dated 24.10.2016 and the same was admitted and notice was ordered to be issued to the private respondents; that the first respondent in the meantime has filed an application under Right to Information Act, seeking information about his application for survey; that since the third respondent has not provided the information sought for, he has filed an appeal before the first respondent; that the first respondent, who in turn, has passed the impugned order, dated 07.10.2021, directing the third respondent to take necessary action for the destroyed boundary stone and to survey the land within time or otherwise, heavy cost will be imposed and that the impugned order passed without jurisdiction, cannot legally be sustained.

3. The fifth respondent, who appeared as a party-in-person, has filed an affidavit stating that the petitioner's property is situated adjacent to the property in dispute; that the petitioner had trespassed into his property by using fraudulent documents; that since the fifth respondent has lodged the complaint to the Governor, District Collector and others that the Tahsildar, Palani conducted proper enquiry and fixed the boundary marks and Boundary Certificate has been issued to the fifth respondent, but the petitioner and others had destroyed the boundary marks and stones; that the



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fifth respondent and his mother have filed a complaint before the Revenue Divisional Officer stating that the petitioner's mother altered patta of Government land pathway to her name without any registered documents and the petitioner tried to alter the revenue records to his name with fraudulent registered documents; that the learned Judicial Magistrate, Palani has passed an order, dated 13.08.2021 to lodge the F.I.R., against the petitioner and others for destroying the boundary marks and for criminal activities; that though the fifth respondent has applied under RTI, they have not furnished the information properly and that therefore, he was constrained to approach the Tamil Nadu State Information Commission.

4. It is evident from the records that there existed disputes between the petitioner and the fifth respondent with respect to the land above referred and the revenue proceedings are pending. Moreover, the petitioner as well as the fifth respondent have filed writ petitions and the same are also pending.

5. It is not in dispute that in the meanwhile, the fifth respondent has filed an application seeking certain particulars before the third respondent; that the fifth respondent, by alleging that the third respondent has not furnished the particulars as sought for, preferred the first appeal before the



State Information Commission and that though the State Information Commission has passed an order giving directions to the third respondent, the third respondent has not complied with the directions of State Information Commission and hence, filed the second appeal before the State Information Commission. It is also not in dispute that the State Information Commission after conducting enquiry in the second appeal has passed the impugned order, dated 07.10.2021, directing the third respondent to furnish the particulars within 15 days from the date of receipt of copy of this order.

6. The main contention of the writ petitioner is that the State Information Commission in the impugned order apart from directing the third respondent to furnish the particulars, regarding the action taken on the complaint given by the fifth respondent and also to inform him as to when they would survey his land, within 15 days from the date of receipt of the said order; that the Information Commission is not having any power or jurisdiction to direct survey of the land in dispute and that therefore, the impugned order passed without jurisdiction is a nullity and as such, the same is liable to be quashed.



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7. The learned Standing Counsel appearing for the first respondent/ State Information Commission would submit that they have only directed the third respondent to furnish the particulars sought for by the fifth respondent and there was no specific direction to survey the land and only directed them to give the information as to when they would survey the land.

8. No doubt, the direction of the first respondent to give particulars with regard to the action taken on a petition lodged by the fifth respondent complainant with regard to the destruction of his boundary marks and stones cannot be found fault with. But, at the same time, the direction to inform as to when the survey would be completed, as rightly contended by the learned counsel for the petitioner, cannot be taken as a direction for furnishing the information, but indirectly, the commission has directed the third respondent to conduct survey. If the direction was to furnish the information with regard to the action taken or orders passed in the application filed by the fifth respondent, seeking survey of the property in dispute that would be a different matter, but in the impugned order, the first respondent has directed the third respondent to inform as to when the survey would be completed as survey charges have already been remitted. Since the first respondent is not



having any power or jurisdiction to give such direction to survey the land,
the impugned direction cannot be legally be sustained.

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9. In the Writ Petition filed by the fifth respondent in W.P.(MD) No.22702 of 2015, a learned Judge of this Court considering the submissions made on both sides and taking note of the fact that petitioner herein has filed a revision petition before the District Revenue Officer, the District Revenue Officer was directed to entertain the revision petition and to pass final orders after hearing both the parties on merits and in accordance with law within a period of four months after receipt of such petition from the petitioner and based on the decision of the District Revenue Officer, Dindigul, the third respondent was directed to survey, measurement and demarcation of the property in dispute.

10. In view of the orders passed in W.P.(MD)No.22702 of 2015 no further direction is necessary in the present writ petition.

11. In the result, the impugned direction of the first respondent with regard to the survey of the property in dispute is quashed. The parties are at liberty to approach the third respondent subject to the orders passed by the



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District Revenue Officer, Dindigul in the revision petition as directed in W.P.

(MD)No.22702 of 2015.

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12. With the above observation and direction, the Writ Petition is disposed of. Consequently, connected Miscellaneous Petitions are closed.

No costs.

23.08.2024

NCC : Yes/No

Index : Yes/No

Internet : Yes/No

das

To

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K.MURALI SHANKAR, J

DAS

Pre-delivery order made in
W.P(MD)No.21962 of 2021
and
W.M.P(MD)Nos.18536 and 18538 of 2021

Dated 23.08.2024