



W.P.(MD) No.21243 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.09.2024

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.21243 of 2017

and

W.M.P(MD)No.17519 of 2017

T.Muthaiah @ Skailab

.. Petitioner

Vs.

1.The Tahsildar,
Sivagiri Taluk Office,
Sivagiri, Tirunelveli District.

2.The Zonal Deputy Tahsildar,
Sivagiri Taluk Office,
Sivagiri, Tirunelveli District.

3.The Village Administrative Officer,
Sivagiri Part II, Sivagiri Taluk Office,
Sivagiri, Tirunelveli District.

4.The Pirka Surveyor,
Survey Department,
Sivagiri Taluk Office,
Sivagiri, Tirunelveli District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India,
praying for issuance of Writ of Certiorarified Mandamus, to call for the



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records in connection with the impugned order passed by the 4th respondent regarding the measurement condition order in the Sivagiri Part II in Survey No.184, dated at about 11.00 am on 09.11.2017 and quash the same and consequently and direct the respondents to pass any appropriate other order or direction according to law.

For Petitioner : Mr.R.Bharathi Raja

For Respondents : Mr.P.Thambidurai
Government Advocate

ORDER

This writ petition is filed for a certiorarified mandamus to quash the enquiry notice, dated 09.11.2017 issued by the 4th respondent regarding survey and measurement and direct the respondents to pass other appropriate orders.

2. The petitioner's case is that he, his father Theivanayagam and his father's brother Marudham had jointly purchased an extent of 25 acres in Survey No.183 for a sum of Rs.7,500/- from one Dharmakrishna Raja. The petitioner would submit that since Marudham was younger to his father, he had helped him financially. The said Marudham was working



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in the Police Department. After purchasing the lands, he had left it totally under the control of the petitioner's father. It was the petitioner's father who had developed the property. In the year 1984, he had passed away and the petitioner was under the care and custody of his grand-mother, namely Rathinammal @ Veerammal. She had also meanwhile died. The petitioner was then take care of by his sister's husband as also the 25 acres of land. The petitioner's brother-in-law, namely Veerachamy s/o Sappani had applied for a motor connection and had got obtained in his name for irrigating the 25 acres of land. The said Veerachamy was managing the lands as the guardian of the petitioner and as his sister's husband.

3. While so, Marudham attempted to utilize his clout as a policeman and he had executed two sale deeds for an extent of 4 acres each from out of the 25 acres for a meager sum of Rs.20,000/-. The petitioner's father and the said Marudham had not partitioned the property. He had repurchased the 8 acres that he had sold. Since the said Marudham was using his power as a tool to occupy the entire property,



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the petitioner had filed civil suits in respect of the 25 acres situated in Survey No.183. It appears that, pending these suits, the said Marudham had moved the revenue authorities to issue a joint patta in favour of the persons to whom he had sold the property. It appears that one Madidurai one of the purchasers has filed a writ petition before this Court to consider his request for grant of patta. This Court had directed the 1st respondent therein to consider and pass orders on the representation of the petitioner within a period of 12 weeks. The respondent however not followed the dicta of this Court and has not conducted an enquiry.

4. The petitioner would submit that no enquiry has been conducted by the 1st respondent of all the owners, persons who are interested in the above patta. Without giving any opportunity and without even holding a preliminary enquiry, the 4th respondent has issued the impugned notice stating that the survey is proposed to be conducted. The petitioner is aggrieved by the fact that despite having knowledge about the pendency of the suits, the present survey is proposed to be conducted. Therefore, he has come forward with the suit in question. The impugned order clearly



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overlooks the earlier orders passed in W.P(MD)No.18203 of 2017 wherein this Court had directed the 1st respondent to consider the representation after providing an opportunity to all the interested parties. The said exercise has not been complied with. The 4th respondent has not issued notice to all the parties concerned. In the earlier writ petition, the respondents were directed to dispose of the request of the petitioner therein within a period of 12 weeks has not been done. However, from a perusal of the affidavit, it is clear that even the petitioner seeks to have the properties surveyed and demarcated and subdivided and thereafter patta to be granted.

5. Considering the fact that both parties are claiming a right to the property, the 1st respondent is directed to conduct survey after hearing the parties and perusing their records and pass orders within a period of (8) weeks. In case, the survey cannot be conducted on account of the parties not being able to identify the properties on the basis of the documents, the 1st respondent shall pass a speaking order and the parties shall work out their remedy before the Civil Court .



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6. With the above directions, this Writ Petition stands disposed of.

No costs. Consequently, connected Miscellaneous Petition is closed.

03.09.2024

NCC : Yes/No

Index : Yes/No

Internet : Yes

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To

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- 2.The Zonal Deputy Tahsildar,
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P.T.ASHA, J.

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