

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.05.2018

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.12969 of 2018
and W.M.P.No.15225 of 2018

- 1.C.R.Palanisamy
- 2.C.S.Venkatachalam
- 3.K.Palanisamy
- 4.Seethappan
- 5.Kalaiyarasi
- 6.Chandrasekar
- 7.Kalaivani
- 8.M.Duraisamy

... Petitioners

Vs.

- 1.The District Collector,
Erode District, Erode-638 011.
- 2.The District Revenue Officer,
Erode District, Erode-638 001.
- 3.The Revenue Divisional Officer,
Gobichettipalayam,
Erode District-638 452.
- 4.The Tahsildar,
Bhavani Taluk,
Erode District-638 301.
- 5.The Assistant Director,
Department of Land Survey,
Office of the District Land Surveyor,
Erode-638 001.
- 6.The Director,
Agricultural Engineering Department,
Gobichettipalayam, Bhavani,
Erode District.
- 7.The Assistant Executive Engineer,
Water Resource Department,
Lower Bhavani Basin Division,
Division-II, Erode-2.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, to direct respondents 1 to 7 to conduct a proper survey of the lands comprised in Survey Nos.109/A, 109/B1 and 109/B2 corresponding to re-survey No.1 situated at Chettipalayam Village, Bhavani Taluk, Erode District totally measuring to an extent of 11.09 acres of land and to fix the boundaries and then proceed with the construction of check dam by excluding the petitioners' patta land in the poramboke land belongs to Agricultural Engineering Department based on the representation of the petitioners dated 02.05.2018 forthwith and to pass further order.

For Petitioners : Mr.C.Prabakaran
For RR1 to 4 : Mr.V.Anandamurthi,
Additional Government
Pleader

O R D E R

The petitioners have prayed for issuance of Writ of Mandamus to direct respondents 1 to 7 to conduct a proper survey of the lands comprised in Survey Nos.109/A, 109/B1 and 109/B2 corresponding to re-survey No.1 situated at Chettipalayam Village, Bhavani Taluk, Erode District totally measuring to an extent of 11.09 acres of land and to fix the boundaries and then proceed with the construction of check dam by excluding the petitioners' patta land in the poramboke land belongs to Agricultural Engineering Department based on the representation of the petitioners dated 02.05.2018 forthwith and to pass further orders.

2. The petitioners would submit that they are enjoying the lands in Survey Nos. 109/A, 109/B1 and 109/B2 to an extent of 11.09 acres in the aforesaid area of Chettipalayam Village, Bhavani Taluk, Erode District, which belong to their ancestors. The petitioner were issued with patta in respect of the above survey numbers and the respondents, all of a sudden, surveyed the properties of the petitioners and fixed the boundary stones for the purpose of proposed construction of check dam/pond belongs to respondents 6 and 7 herein, which is a poramboke land of the Agricultural Engineering Department. The petitioner submits that apart the respondents have trespassed into the petitioners lands, which are their patta lands owned by them and had put up the boundary stones with improper measurement. Though the petitioners have objected while surveying, the same was not considered by the authorities. The petitioners had sent a detailed representation jointly to the respondents on 02.05.2018 and requested for re-surveying the property, which was not adhered to. The petitioners are the owners of the

property with valid revenue records and had no other remedy except to approach this Court. It is seen from the type set the representation was forwarded by the fifth respondent to the fourth respondent for necessary action by communication dated 04.05.2018 in Na.Ka.No.3802/2018/A9. But, till date, no action has been taken and the petitioner also apprehends that the respondents will trespass into their lands and will start to construct the dams. Hence, they approached this Court seeking for issuance of Writ of Mandamus.

3. Heard both the counsels and perused the records.

4. As per the suggestion of this Court, the learned Additional Government Pleader appearing for respondents 1 to 4 would agree and submit that the lands can be re-surveyed properly and the boundaries can be fixed in the presence of all the parties.

5. Hence, this writ petition is disposed of with the following directions:-

(i) The respondents are directed to employ qualified Government Surveyor of the area within a period of two weeks from the date of receipt of a copy of this order for re-surveying the land and to fix the boundaries as per the records;

(ii) the respondents are directed to sent notices to the petitioners giving sufficient time to be present in the disputed lands;

(iii) After re-surveying the land in the presence of the parties, pass final orders in the representation of the petitioner.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

abr/Rj

To

1.The District Collector,
Erode District,
Erode-638 011.

- 2.The District Revenue Officer,
Erode District,
Erode-638 001.
- 3.The Revenue Divisional Officer,
Gobichettipalayam,
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Erode District.
- 7.The Assistant Executive Engineer,
Water Resource Department,
Lower Bhavani Basin Division,
Division-II, Erode-2.

+1cc to Mr.W.Camyles Gandhi, Advocate SR.No.34055
+1cc to Government Pleader SR.No.34194

W.P.No.12969 of 2018 &
W.M.P.No.15225 of 2018

GJ(CO)
GN(30/05/2018)

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