



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.04.2019

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.2919 of 2019

1.P.Viswanath
2.Ambikavathy
3.Padmavathy

... Petitioners

Vs.

1.The District Collector,
Dindigul.

2.The Tahsildar,
Dindigul West Taluk,
Dindigul.

3.The Head Surveyor,
Taluk Office,
Dindigul West Taluk,
Dindigul District.

4.Firka Surveyor,
Palakanoothu,
Dindigul West Taluk,
Dindigul.

5.P.Tamilarasan
6.Kavitha
7.M.Sumathy

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the respondents 2 to 4 to survey, fix the boundaries and renew the missing survey marks in respect of the properties in 115/8, 115/9A, 139/1A, 142/4A, 139/1B, 140/1C, 141/1D, 140/1F, 141/1H, 141/1I, in Palakanoothu Village, Dindigul West Taluk, Dindigul District, within a time stipulated by this Court.

For Petitioners

:M/s.H.lakshmi Shankar

For R1 to R4

:Mr.M.Karuppasamy
Government Advocate

For R5 to R7

:Mr.A.Prasanna Rajadurai

**ORDER**

Heard the learned counsel on either side.

2. All that the petitioners want is enforcing the statutory mandate set out in Section 15 of the Tamil Nadu Survey and Boundaries Act, 1923. Section 15(1) of the Tamil Nadu Survey and Boundaries Act, 1923 reads as under:-

15. Registered holders responsible for the maintenance of survey marks.-

(1) Subject to such conditions as may be prescribed in this behalf, every registered holder of Government land shall be bound to maintain, renew and repair the survey marks on or within the boundaries of his holding, and in default of his doing so, the survey officer or the Collector may, at the cost of the State Government, maintain, renew and repair such survey marks, determine and apportion the cost of so doing, and recover such cost as an arrear of land revenue. Such cost may include the cost of all operations incidental to such renewal or repair, but not any charges on account of survey officers and supervising establishment.

3. The petitioners' request is opposed by the learned counsel appearing for the private respondents, principally on the ground that he had filed two suits namely O.S.No.280 of 2018 on the file of the Additional District Munsif Court, Dindigul and O.S.No.51 of 2019 on the file of the District Munsif Court, Dindigul and that therefore, the petitioners' request cannot be granted.

4. This Court went through the plaint filed in O.S.No.280 of 2018. It is seen that the relief sought for in the said plaint is that survey No.139/1B should be declared as a common pathway.

5. The petitioner's counsel stated that he had already informed the revenue authorities that he would not press for including the said survey number namely Survey No.139/1B in the list of items to be surveyed. As regards, O.S.No.51 of 2019 on the file of the District Munsif Court, Dindigul, it is seen that the suit items are not mentioned in the prayer made in this writ petition. Therefore, the pendency of these two suits need not come in any way of the authorities carrying out the said exercise of surveying and fixing its boundaries. Another important aspect will have to be taken note of. The writ petitioners as well as the private respondents are relatives. The partition had already taken place in the family. The petitioners are not asking for the new sub division of the survey numbers. They only want the old survey stones that were already fixed to be reinstalled which according to the petitioner were removed by the private respondents.

6. I do not want to go to the said allegation made by the learned counsel for the petitioners that the private respondents removed the survey stones. When the petition mentioned survey numbers were



already in existence and the stones have already been laid, the Revenue Authorities namely, R2 to R4 are obliged to act in conformity with the statutory mandate set out in Section 15(1) of the Tamil Nadu Survey and Boundaries Act, 1923.

7. In this view of the matter, the revenue authorities shall complete the entire exercise within a period of eight weeks from the date of receipt of a copy of this order. Before re-installing the survey stones in question, the private respondents will be informed in advance. The writ petition is allowed accordingly. No costs.

Sd/-

Assistant Registrar(Cr1.Side)

/TRUE COPY/

Sub Assistant Registrar(CS)

To

1.The District Collector,
Dindigul.

2.The Tahsildar,
Dindigul West Taluk,
Dindigul.

3.The Head Surveyor,
Taluk Office,
Dindigul West Taluk,
Dindigul District.

4.Firka Surveyor,
Palakanoothu,
Dindigul West Taluk,
Dindigul.

+1 CC to M/s.A.PRASANNA RAJADURAI, Advocate (SR-60485[F] dated 11/04/2019)

+1 CC to M/s.H.LAKSHMI SHANKAR, Advocate (SR-60279[F] dated 11/04/2019)

+1 CC to M/s.SPL GP (SR-60588[F] dated 11/04/2019)

W.P. (MD) No.2919 of 2019
10.04.2019

CS (KM) : 08/05/2019/3P/8C