



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **19.02.2021**

CORAM

THE HONOURABLE MR.JUSTICE **V.PARTHIBAN**

W.P. (MD) No.1848 of 2021

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1.P.Vijayakumar

2.A.Muthupandi

3.M.Senthil Kumar

4.R.Muthu Kumar

... Petitioners

-vs-

1.The Tahsildar,
Madurai North,
Madurai.

2.The Firka Surveyor,
Kulamangalam,
Madurai North,
Madurai.

3.The Inspector of Police,
Alanganallur Police Station,
Madurai District.

4.T.K.Kumar

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents 1 and 2 to Survey the property in R.S.No.42/3A, Boothakudi Village, Madurai North Taluk, Madurai, based on the petitioner's representation dated 25-08-2020.

For Petitioners	: Mr.C.Vakeeswaran
For R1 to R3	: Mr.M.Karuppasamy
	Government Advocate
For R4	: Mr.R.Prakalad Ravi

ORDER

The case of the petitioners is that they have purchased the property in R.S.No.42/3A to an extent of 25 cents each in toto 1 acre, out of 2 acres 16 cents situated at Boothagudi Village, Madurai North Taluk, Madurai District, vide registered sale deed in Document No.13242, 13238, 13240 and 13241, dated 22.11.2019. After the purchase of the property, patta was also changed in the petitioners' names and in order to protect their property, they



wanted to put up fences, preventing any illegal claim to the property.

2. According to the petitioners, the 4th respondent approached the Tahsildar concerned, requesting him to record his tenancy in the property, but he has failed to establish his case that he is the cultivating tenant. The petition was dismissed on 16.08.2018 and as against the said dismissal order, the 4th respondent has preferred an appeal before the Revenue Court, Madurai and the same is pending. In the said circumstances, the petitioners submitted a detailed representation on 25.08.2020 seeking to take action against the 4th respondent and his henchmen for obstructing entry into their properties. In this regard, a police complaint was also lodged and a criminal original petition in CrI.O.P. (MD) No.9518 of 2020 was filed seeking a direction to give police protection to survey and fence the property, owned by the petitioners.

3. The above criminal original petition was disposed of on 09.09.2020 by this Court to look into the complaint of the petitioner. In the meanwhile, the petitioners approached the 1st respondent to survey the land and notice was also issued for survey on 23.09.2020 to the petitioners as well as the 4th respondent. When the 2nd respondent wants to survey the land, the 4th respondent along with henchmen has restrained the authorities from surveying the land and to fence the property. Since no survey could happen, the parties were directed to appear for enquiry on 20.12.2020 along with the relevant documents.

4. Thereafter, the 2nd respondent on behalf of the 1st respondent issued notice on 23.11.2020 for surveying the land on 02.12.2020. On 02.12.2020, once again the 4th respondent was obstructing the authorities and preventing them from surveying the land. In the meanwhile, the 4th respondent also filed a suit in O.S.No.70 of 2020 on the file of the District Munsif Court, Melur, Madurai. However, he has failed to obtain any interim injunction legally preventing the authorities from surveying the land. Since the request for surveying and fencing the land could not be carried out, due to the aforesaid reasons, the petitioners are before this Court.

5. From the above narration of facts, it could be seen that there appears to be a serious and contentious dispute as between the petitioners and the 4th respondent. Despite the respondent officials taking steps for surveying and fencing the land, in pursuance of the request of the petitioners, the same could not be completed in view of the strong objection of the 4th respondent and his henchmen. In any case, the suit in O.S.No.70 of 2020 has been filed by the 4th respondent for injunction and it is open to the petitioners to workout their remedies before the civil Court and seek any interim direction to protect their rights or their properties. Further, when the dispute is alive and pending as between the parties, this Court cannot by issuing a direction compel the revenue authorities to undertake the survey as requested by the petitioners. Moreover, it is certainly not within the jurisdiction of this Court to settle a



rival claim of this nature, when the *lis* is pending before the civil Court.

6. For the aforesaid reasons, this Court is of the view that the writ petition is not maintainable and accordingly, the same is dismissed. No costs.

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Sd/-

Assistant Registrar (CRL SIDE)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

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To

1. The Tahsildar,
Madurai North,
Madurai.

2. The Firka Surveyor,
Kulamangalam,
Madurai North,
Madurai.

3. The Inspector of Police,
Alanganallur Police Station,
Madurai District.

+1 CC to Mr. C. VAKEESWARAN, Advocate (SR-6117[F] dated 19/02/2021)

+1 CC to Mr. B. PRAHALAD RAVI, Advocate (SR-6316[F] dated 19/02/2021)

+1 CC to SPL GP (SR-6690[F] dated 23/02/2021)

W.P. (MD) No. 1848 of 2021
19.02.2021

VB (12.03.2021) 3P 7C