



W.P.No.30028 of 2022

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 14.11.2022**

**CORAM**

**THE HONOURABLE MR.JUSTICE M.DHANDAPANI**

**W.P.No.30028 of 2022**

**and W.M.P.Nos.29436 & 29437 of 2022**

K.Sampath

... Petitioner

Vs

1.The Tahsildar,  
Office of the Tahsildar,  
Rasipuram Taluk,  
Namakkal.

2.The Inspector of Police,  
Vennandur Police Station,  
Rasipuram, Namakkal District.

3.The President,  
Minnakkal and Vadugampalayam Panchayat,  
Vennandur Post,  
Rasipuram Taluk, Namakkal District.

... Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India praying for Writ of Certiorarified Mandamus, calling for the records of the impugned order passed by the 1<sup>st</sup> respondent in his proceedings Na.Ka.6107/2022/B1 dated 21.10.2022 and quash in so far as Clause-II and consequently, direct the 1<sup>st</sup> respondent herein to Survey and demarcate the boundaries by fencing the petitioner's land situated at Nachipatti



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Village, Rasipuram Taluk, Namakkal District, comprised in Survey No.2/2 in Patta No.84 along with the Protection of 2<sup>nd</sup> respondent herein.

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For Petitioner : Mr.W.Camyles Gandhi

For Respondents : Mr.T.K.Saravanan for RR1 & 2  
Government Advocate

: Dr.S.Suriya for R3  
Additional Government Pleader (C.S.)

### **ORDER**

This Writ Petition has been filed to call for the records of the impugned order passed by the 1<sup>st</sup> respondent in his proceedings Na.Ka.6107/2022/B1 dated 21.10.2022 and quash in so far as Clause-II and consequently, direct the 1<sup>st</sup> respondent herein to Survey and demarcate the boundaries by fencing the petitioner's land situated at Nachipatti Village, Rasipuram Taluk, Namakkal District, comprised in Survey No.2/2 in Patta No.84 along with the Protection of 2<sup>nd</sup> respondent herein.

2.The case of the petitioner is that the petitioner's father is the owner of the property by virtue of a Partition Deed situated at Nachipatti Vilage, Rasipuram Taluk, Namakkal District in Survey No.2/2. In order to measure the property, the petitioner made an application before the Revenue



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Officials. However, no order was passed. While so, the 3<sup>rd</sup> respondent started to disturb the petitioner's possession under the guise of laying road in the said survey number. Therefore, the petitioner filed W.P.No.24176 of 2012 before this Court forebearing the 3<sup>rd</sup> respondent not to interfere with the peaceful possession and enjoyment of the property. Later the petitioner received information by way of RTI stating that there is no such proposal tendered for the same vide communication dated 24.03.2021 vide proceedings in Na.Ka.1500/2020/a3 and the same was submitted by the 1<sup>st</sup> respondent therein before this Court and this Court vide its order dated 07.01.2022 closed the Writ Petition, recording the submission of the 1<sup>st</sup> respondent. Thereafter, the petitioner approached the 1<sup>st</sup> respondent to survey and measure the said land and to demarcate the boundaries and remitted necessary fees for the same, whereas, the same was not considered. Therefore, the petitioner filed W.P.No.16226 of 2022 before this Court, seeking direction to the 1<sup>st</sup> respondent to survey and demarcate the boundaries with the protection of the 2<sup>nd</sup> respondent, based on the petitioner's representation dated 12.05.2022 and this Court vide its order dated 29.06.2022 issued direction to the 1<sup>st</sup> respondent to consider the petitioner's representation. Thereafter, the petitioner lodged a complaint



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before the 2<sup>nd</sup> respondent dated 08.05.2022, wherein, 107 proceedings was initiated by the 2<sup>nd</sup> respondent and a case was registered on 25.05.2022 and the same was forwarded by the 2<sup>nd</sup> respondent to the 1<sup>st</sup> respondent. Since, the petitioner did not receive proper communication, the petitioner was not able to appear before the 1<sup>st</sup> respondent for 107 proceedings. Thereafter, the petitioner received summon vide proceedings in Na.Ka.6107/2022/B1 dated 12.09.2022 and the petitioner appeared before the 1<sup>st</sup> respondent on 16.09.2022. Pursuant to which, the 1<sup>st</sup> respondent passed the impugned order dated 21.10.2022 vide his proceedings in Na.Ka.6107.2022/B1 pending the 107 proceedings. Aggrieved over the Clause II of the said portion impugned order, the petitioner has filed the present Writ Petition.

3.The learned counsel for the petitioner would submit that due to a dispute with regard to the fencing of the property with the 3<sup>rd</sup> respondent, the petitioner lodged a complaint before the 2<sup>nd</sup> respondent dated 08.05.2022, wherein, 107 proceedings was initiated by the 2<sup>nd</sup> respondent and a case was registered on 25.05.2022 and the same was forwarded by the 2<sup>nd</sup> respondent to the 1<sup>st</sup> respondent. Since, the petitioner did not receive proper communication, the petitioner was not able to appear before



the 1<sup>st</sup> respondent for 107 proceedings. Pursuant to which, the 1<sup>st</sup> respondent passed the impugned order dated 21.10.2022 vide his proceedings in Na.Ka.6107.2022/B1 pending the 107 proceedings. Aggrieved over the Clause II of the said portion, the petitioner has filed the Writ Petition and prayed for allowing the Writ Petition.

4.Learned Government Pleader appearing for the respondent would submit that though the petitioner claim that the property is owned by him, however, there is a dispute in between the petitioner and the private respondent, for which, the law enforcing agency initiated 107 proceedings against the petitioner and the private respondent and there was an issue with regard to measuring the property and fencing the same. Unless the law enforcing agency decides the issue with regard to the 107 proceedings, fencing the property is not sustainable one. Accordingly, he prayed for appropriate orders.

5.Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents 1 and 2 and the learned Additional Government Pleader appearing for the 3<sup>rd</sup>



respondent and perused the materials available on record.

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6.The facts in the present case is not in dispute. Aggrieved by the restrained order passed by the 1<sup>st</sup> respondent, the present writ Petition is filed. However, the fact remains, there is a dispute between the petitioner and the 3<sup>rd</sup> respondent with regard to the fencing the property situated at Nachipatti Vilage, Rasipuram Taluk, Namakkal District in Survey No.2/2 and the same was taken before the law enforcing agency/ 2<sup>nd</sup> respondent, 107 proceedings were initiated, both the parties has to restrain themselves from fencing the property till the conclusion of the 107 proceedings initiated by the 2<sup>nd</sup> respondent. Therefore, the order passed by the 1st respondent cannot be interfered with. Hence, the prayer sought for in this Writ Petition cannot be granted. However, this Court is inclined to issue a direction to the 2<sup>nd</sup> respondent to conclude the proceedings within a period of four weeks from the date of receipt of a copy of this order. Till the conclusion of the proceedings pending on file of the 3<sup>rd</sup> respondent, the petitioner as well as the 3<sup>rd</sup> respondent shall to maintain the status quo till the conclusion of the 107 proceedings on the file of the 2<sup>nd</sup> respondent.

7.This Writ Petition is accordingly dismissed. No costs.



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Consequently, connected miscellaneous petition is closed.

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Index : Yes/No  
Speaking Order : Yes/No  
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**M.DHANDAPANI,J.**

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