



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **20.06.2022**

CORAM

WEB COPY

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P. (MD) .No.12389 of 2012

and

M.P. (MD) No.1 of 2012

Gopal

... Petitioner

Vs.

1. The Tahsildar,
(Land Survey Section),
Sivagangai Taluk,
Sivagangai, Sivagangai District.

2. Murugesan

3. Chandran

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records from the first respondent in his proceedings in Na.Ka.A7-1978-2012 dated 12.09.2012 and quash the same and consequently direct the first respondent to survey and fix the boundaries of the petitioner's land in Survey No.135/16 situated at Melasethoor Village, Sivagangai Taluk & District.

For Petitioner : Mr.Sathish Babu

For R1 : Mr.D.SasiKumar
Additional Government Pleader

For R2 : Mr.Anwar Sameem
for Mr.T.Antony Arulraj

ORDER

The present writ petition has been filed challenging an order passed by Tahsildar under which the Tahsildar has rejected the application of the writ petitioner to conduct a survey and fix the boundaries of the property in Survey No.135/16. The impugned order has been passed on the ground that a second appeal is pending before this Court in S.A.No.578 of 2012 and hence the survey has been objected to by the second and third respondents.



2. The learned Counsel for the petitioner has contended that he has succeeded before both the Courts below and only in order to stall the survey proceedings, a second appeal was filed.

3. Per contra, the learned Counsel for the respondents contends that there is a serious title dispute with regard to the above said property and when second appeal is pending, the survey authorities will not have any jurisdiction to get along with the survey proceedings at the instance of the writ petitioner who is also a party in the second appeal.

4. I have considered the submissions made on either sides. Admittedly, a second appeal in S.A.No.578 of 2012 is pending between the same parties with regard to the disputed Survey No.135/16. When a civil dispute is pending, the respondent authorities have no jurisdiction to proceed further and conduct a survey when the same is objected to by the other party. Hence, the impugned order passed by the respondent is sustained. The writ petitioner is directed to file a fresh application based upon the disposal of the pending second appeal.

5. With the above said observations, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/06/2022

Sub Assistant Registrar(CS)

jbr

To

The Tahsildar,
(Land Survey Section),
Sivagangai Taluk,
Sivagangai, Sivagangai District.

+1 CC to M/s.SPL.GP (SR-27096[F] dated 21/06/2022)

W.P.(MD).No.12389 of 2012

20.06.2022

RD(28.06.2022) 2P 3C