



W.P(MD)No.3824 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.3824 of 2013

and

M.P(MD)No.2 of 2013

Thangamani,

: Petitioner

Vs

1. The District Collector,
Theni, Theni District.

2. The Tahsildar,,
Theni Taluk,
Theni District

3. The Sub Inspector (Survey),
Theni Taluk, Theni District

4. The Inspector of Police,
Palanichettipatti Police Station,
Palanichettipatti, Theni District.

5. Mrs.C.Krishnasmmal,
6. Mrs.C.Meenatchi,
7. Mrs.Pappammal,
8. Mrs.Pommaian,
9. Mrs. B.Vasantha,
11. Mr.Perumal,

: Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the proceedings of the third respondent in pursuance of Impugned Notice, dated 04.03.2013 in R.T.R.No. 231 of 2013 and quash the same.

For Petitioner : Mr.B. Rajesh Saravanan,

For R1 to R4 : Mr.Mr.P.Thilak Kumar
Government Pleader
For Mr.Mr.M.Ramesh
Government Advocate

For R5 and R6 : Mr.B.Balamurugan

For R7 to R11 : No Appearance

ORDER

This writ petition had been filed in the nature of Certiorari, seeking to quash the proceedings of the third respondent in pursuance of the Impugned Notice, dated 04.03.2013 in R.T.R.No. 231 of 2013.

2.According to the writ petitioner, a civil suit in O.S.No.170 of 2012 was pending at the time of issuance of the impugned notice. The said suit was pending before the District Munsif Court, Theni. When there is a civil dispute pending, the third respondent will not have



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jurisdiction whatsoever to issue a notice for conducting survey of the property.

3.*Per contra*, the learned Counsel appearing for the respondents 5 and 6 pointed out that the suit in O.S.No.170 of 2012 filed by the writ petitioner along with others was dismissed on merits, on 18.07.2014. Since the civil suit filed by the writ petitioner had already been dismissed, there is no legal impediment for conducting the survey. However, the learned Counsel appearing for the petitioner contended that if any survey is conducted, the same shall not disturb the petitioner's title to the property.

4.In view of the above said facts, this Court finds that only due to the pendency of the civil suit, the third respondent did not have any jurisdiction to proceed with the survey. However, after the dismissal of the civil suit for permanent injunction, there is no other legal impediment and hence, the third respondent can proceed with the survey. However, if any survey is conducted, the same shall always be subject to the result of any First Appeal or any civil suit i.e., proposed to be filed by the petitioner herein.



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5. With the above said observation, this writ petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index: Yes/No

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Theni District
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Palanichettipatti, Theni District.



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R.VIJAYAKUMAR, J.

lr

ORDER MADE IN

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