



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.01.2022

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD) .No.18783 of 2021

and

W.M.P(MD) Nos.15592 of 2021 and 132 of 2022

WEB COPY

Dhanamani @ Pappathi

...Petitioner

Vs .

1.The District Collector,
Dindigul District,
Dindigul.

2.The District Surveyor,
Dindigul,
Dindigul District.

3.The Tahsildar,
Kodaikanal Taluk,
Dindigul District.

4.D.Selvaraj

5.Suseela

6.Sebastin

7.Selviya

8.Amali

9.George

10.Rajathi

11.Gnanamani

12.Santhi

13.Jeyaseelan

14.Vijaya

15.Rajamanickam

16.S.Ashik Ahamed

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, forbearing the third respondent from measuring S.No.1115 of Vilpatti Village, Kodaikanal Taluk, Dindigul District and handover possession to the sixteenth respondent without issuing notice to the petitioner and other interested persons under Section 10 of the Tamil Nadu Survey and Boundaries Act, 1923 and conducting enquiry.

For Petitioner	:	Mr.P.Vinoth
For R1 to R3	:	Mr.S.Shanmugavel
		Additional Government Pleader
For R16	:	Mr.T.Palanisamy
		For Mr.K.K.Ramakrishnan



ORDER

The Writ Petition has been filed in the nature of Mandamus, seeking a direction forbearing the third respondent/the Tahsildar, Kodaikanal, Dindigul District, from measuring S.No.1115, Vilpatti Village in Kodaikanal Taluk, Dindigul district and from handing over the possession to the sixteenth respondent without issuing notice to the petitioner and other interested person.

2.An interim order was passed by my learned predecessor on 12.10.2021, wherein, it had been stated that the property should not be measured without giving appropriate opportunity to the petitioner and other legal heirs. That interim order was directed to be in force for a period of eight weeks.

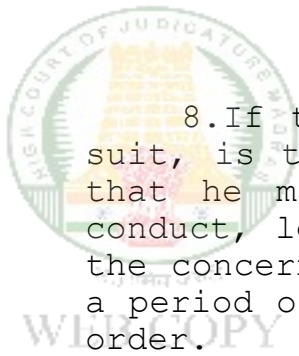
3.In the said interim order, there has been substantial examination of the facts of the case. In view of that particular interim order, a vacate stay application has also been filed in W.M.P(MD)No.132 of 2022 by the sixteenth respondent.

4.Heard Mr.P.Vinoth, learned Counsel who appears for the petitioner and Mr.S.Shanmugavel, learned Additional Government Pleader who appears for the first to third respondents and Mr.T.Palanisamy, learned Counsel who appears for the sixteenth respondent.

5.I am not aware whether notices had been served on other respondents, whether there is any representation on behalf of them. Let me not keep this Writ Petition pending any longer. Let me also not examine the facts of the case.

6.I am informed that a suit is also pending in O.S.175 of 2009 before the Sub Court, Palani. It is informed by the learned Counsel for the sixteenth respondent that the suit had been dismissed for default, but, also simultaneously informed by the learned Counsel for the petitioner that application has been filed to restore the suit.

7.Irrespective of the fact, whether the suit is pending or not, a duty is cast on the Tahsildar to issue notices to everybody concerned before he proceeds to conduct survey of the lands in S.No.1115 in Vilpatti Village, Kodaikanal Taluk, Dindigul District. To make it very clear, the Tahsildar must issue notices not only to the writ petitioner/Dhanamani, but also to the fourth to sixteenth respondents in the Writ Petition. He must ensure that notices are served, all of them are heard and all of them are given proper opportunity for presenting the documents or any written representations and only thereafter, if he finds he has jurisdiction, he is directed to conduct survey under Section 10 of the Tamil Nadu Survey and Boundaries Act, 1923.



8.If the Tahsildar is of the opinion that the pendency of the suit, is to be considered, then, let him pass such orders, stating that he may not be able to conduct survey. If he is able to conduct, let him proceed further, but only after issuing notices to the concerned parties. He must complete the entire exercise within a period of twenty weeks from the date of receipt of a copy of this order.

9.If survey is conducted without issuance of notice then, the same will be interfered with by this Court.

10.If he decides not to conduct survey, in view of the pendency of the suit, then, he must give an order in writing to all the interested parties.

11.In view of the fact that an application has been filed to restore the suit, it would also indicate that the said application is under active consideration of the learned Judge, before whom the said suit has been filed. There is a possibility of the said suit being restored and there is a possibility of the application being rejected. It is all within the purview of the learned Judge. The Tahsildar may keep that particular fact in mind.

12.With the above observation, this Writ Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petitions are also closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

lr

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Sub Judge,
Palani.

2.The District Collector,
Dindigul District,
Dindigul.

<https://hcservices.ecourts.gov.in/hcservices/>



3.The District Surveyor,
Dindigul,
Dindigul District.

4.The Tahsildar,
Kodaikanal Taluk,
Dindigul District.

+1 CC to M/s.P.VINOTH, Advocate (SR-1790[F] dated 19/01/2022)

+1 CC to M/s.SPL GP (SR-1913[F] dated 20/01/2022)

W.P (MD) .No.18783 of 2021
19.01.2022

ss (CO)

GC (31.01.2022) 4P 7C