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W.P.(MD)NO.20235 OF 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.12.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.20235 of 2022 and
W.M.P.(MD)No.14706 of 2022

K.Jayaraj

... Petitioner

Vs.

1. The Revenue Divisional Officer,
Revenue Divisional Office, Collectorate,
Nagercoil, Kanyakumari District.
2. The Tahsildar,
Thovalai, Taluk Office,
Boothapandi, Kanyakumari District.
3. The Taluk Surveyor,
Thovalai Taluk, Kanyakumari District.
4. The Revenue Inspector/ Taluk Sub Inspector,
Thovalai Firka, Kanyakumari District.
5. The Village Administrative Officer,
Thovalai Revenue Village,
Kanyaykumari District.
6. Rethinam

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondents in any manner proceeding to survey, measure, demarcate and lay survey stones in the property



bearing Survey No. 601/3 as well as the subsequent subdivision in Survey No. 601/3B, Thovalai Village and Taluk, Kanyakumari District by considering the petitioner's objection dated 18.08.2022 as well as notice dated 20.08.2022.

For Petitioner : Mr.M.P.Senthil

For R-1 to R-5 : Mr.G.Suriyananth,
Additional Government Pleader.

For R-6 : Mr.S.C.Herold Singh

* * *

ORDER

Heard the learned counsel on either side.

2. The petitioner wants this Court to restrain the Tahsildar, Thovalai, from conducting survey in respect of the petition mentioned lands. The petitioner has already given objections before the second respondent.

3. The second respondent is directed to pass an order on the said objections. Whenever the writ petition for survey and demarcation is filed, they are disposed of in the following



terms:-

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“(I) The survey authority will issue notice to the writ petitioner as well as the adjacent land owners and also to the interested persons, if any.

(II) Enquiry shall be held. During enquiry, objections raised by the adjacent land owners / interested persons shall be considered.

(III) If according to the jurisdictional authority, the objections are without any basis, the same shall be overruled and the objectors shall be informed accordingly. But the survey will be conducted only after a period of six weeks so that the objector can move the concerned Court for injunction. If before the proposed date of survey, the objector is unable to obtain any injunction order, the survey can very well go on.

(IV) If the jurisdictional authority finds objections to be having substance, then, he shall call upon the applicant to move the jurisdictional civil Court for agitating his rights.

(V) If required, the survey authority is



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empowered to seek aid of the jurisdictional police and the jurisdictional police are mandated to grant police protection.

(VI) It is made clear that at the end of the survey exercise, survey stones alone can be installed. The exercise of survey and demarcation undertaken pursuant to the direction of this Court can never result in dispossession of any party. No person shall put up fencing at the time of survey by using police aid. The Survey Authority will pass order within a period of six weeks after service of notice on the interested persons.

(VII) A copy of the survey report will be served on the parties also."

4. The very same approach will be adopted by the second respondent in the present case also. This writ petition stands disposed of with the aforesaid directions. No costs. Consequently, connected miscellaneous petition is closed.

15.12.2022

Index : Yes / No
Internet : Yes/ No

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G.R.SWAMINATHAN,J.

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