



W.P(MD)No.20401 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.08.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.20401 of 2022

Shahul Hameed Padusha Andavr
Kadir Oula Dargah,
(Wakf No.G.S.No.819/1956),
Rep. by its Hereditary Haqdars, Inamdars,
1.Peer Pakkar Mohamed,
2.Peer Ahamed,
4, Meer Pallivasal Street,
Melapalayk, Tirunelveli.

... Petitioner

Vs.

1.The Assistant Commissioner,
Tirunelveli Corporation,
Melapalayam Zone,
Tirunelveli.

2.The Town Surveyor,
Tirunelveli Corporation,
Melapalayam Zone,
Tirunelveli.

3.The Inspector of Police,
Melapalayam Police Station,
Tirunelveli.

4.Ramazan Ali

5.Kallel Rahaman

6.Sathar

... 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 Mandamus, to direct the 1 and 2 respondents to survey and demarcate the petitioner's property with the aid of the 3rd respondent by erecting the boundary stones of the land comprised in T.S.No. 1796, New T.S.No. 114 ad-measuring 11015 sq.ft and T.S.No. 1806, New T.S.No. 130 ad-measuring 8270 sq.ft in T.S.Ward No..4, Plot No.20, Keelaveera Ragavapuram Village, Melapalayam Corporation Zone, Tirunelveli Corporation, Tirunelveli based on the petitioner's application dated 01.07.2022 and a representation dated 13.08.2022, 17.08.2022 and 24.08.2022 within a time stipulated by this Court.

For Petitioner : Mr.S.Vashik Ali

For Respondents : Ms.M.Antha,
Standing Counsel for R1.
Mr.R.Sivakumar,
Government Advocate (Crl. Side) for R3.
Mr.M.Sarangan,
Addl. Government Pleader for R2.

ORDER

The petitioner has applied to the jurisdictional authority for conducting survey of the petition mentioned lands and for demarcation of the boundaries. Since the authority had not acted upon the petitioner's request, this writ petition came to be filed.



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2. The Writ Petition is disposed of with the following directions:-

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



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(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.

(VII) A copy of the survey report will be served on the parties also. No costs.

30.08.2022

Index : Yes / No
Internet : Yes/ No
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To:

- 1.The Town Surveyor,
Tirunelveli Corporation,
Melapalayam Zone,
Tirunelveli.
- 2.The Inspector of Police,
Melapalayam Police Station,
Tirunelveli.



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G.R.SWAMINATHAN, J.

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