



W.P.(MD)No.22613 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 27.09.2022

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THE HONOURABLE Mrs.JUSTICE V.BHAVANI SUBBAROYAN

Writ Petition (MD) No.22613 of 2022

V.Vellathurai

.. Petitioner

Versus

1.The Tahsildar,
Sivagiri Taluk,
Tenkasi District.

2.The Village Administrative Officer,
Nelkattumseval Village,
Sivagiri Taluk,
Tenkasi District.

3.The Firka Surveyor,
Gudalur,
Tenkasi District.

4.The Inspector of Police,
Puliyamkudi Police Station,
Tenkasi District.

5.P.Velusamy

.. Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents 1 to 3 to conduct survey as per Tamil Nadu Survey and Boundaries Act, 1923 and to fix boundaries in respect of lands comprised in S.Nos.72/4, measuring an extent of 1.11 Acres, situated at Nelkattumseval Village, Sivagiri Taluk, Tenkasi District and fix the boundaries in the said survey number and also issue



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necessary direction to the fourth respondent herein to provide adequate police protection as and when required by the respondents 1 to 3 herein, within a time frame.

For Petitioner : Mr.V.Uthayakumar
For Respondents 1 to 3 : Mr.A.Kannan
Additional Government Pleader
For 4th Respondent : Mr.B.Thanga Aravindh
Government Advocate
(Criminal side)

ORDER

The petitioner has prayed for issuance of a Writ of Mandamus, directing the respondents 1 to 3 to conduct survey as per Tamil Nadu Survey and Boundaries Act, 1923 and to fix boundaries in respect of lands comprised in S.Nos.72/4, measuring an extent of 1.11 Acres, situated at Nelkattumseval Village, Sivagiri Taluk, Tenkasi District and fix the boundaries in the said survey number and also issue necessary direction to the fourth respondent herein to provide adequate police protection as and when required by the respondents 1 to 3 herein, within a time frame.

2.Heard Mr.V.Uthayakumar, learned counsel appearing for the petitioner and Mr.A.Kannan, learned Additional Government Pleader and Mr.B.Thanga Aravindh, learned Government Advocate (Crl. side), who takes notice for the respondents 1 to 3 and 4 respectively. By consent of learned



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counsel appearing for the parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3.The case of the petitioner is that the lands in S.Nos.72/4, measuring an extent of 0.62 Ares, situated at Nelkattumseval Village, Sivagiri Taluk, Tenkasi District, originally belonged to his grandfather namely, C.Malaiyappa Thevar, S/o.Sivagnana Thevar. His grandfather died intestate on 11.06.1955. Thereafter, all the legal heirs were in joint possession and enjoyment over the properties belonging to the said C.Malaiyappa Thevar. Now, all the legal heirs have decided to partition the property among them. Accordingly, they have sub-divided the lands in S.No.72/4 into three shares, for which, they have decided to survey the said lands and to fix the boundaries.

4.As per the guidelines framed under the Tamil Nadu Survey and Boundaries Act, 1923, the petitioner made an application and remitted necessary fees through online as prescribed on 21.06.2022. On receipt of the petitioner's application, a notice was issued by the first respondent to all the interested persons, including the adjacent land owners and the date for surveying the said lands was fixed as '15.07.2022'. On the said date, when the third respondent Surveyor made an attempt to survey the said lands, the fifth respondent herein, namely, P.Velusamy made objections stating that he had purchased the said lands from the petitioner's grandfather before 69 years back



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and claimed to have a portion of land in the said lands. Unless the same was not given to him, he will not permit the Surveyor to survey the lands. Hence, the survey was not taken place on the said date. The petitioner is unaware about the sale made by his deceased grandfather before 69 years back and further, the said lands are far away from the property. Thereafter, the petitioner once again made a request to the official respondents to survey the said lands. Based on the objections made by the fifth respondent, who is not having any right or interest or title over the said lands, the official respondents are not coming forward to survey the above said lands. Hence, the petitioner left with no other effective alternative remedy, approached this Court under Article 226 of the Constitution of India.

5.The learned Additional Government Pleader appearing for the respondents 1 to 3 submits that already the Surveyor issued a notice to all the parties concerned to appear before the Village Administrative Officer along with all the relevant records on 15.07.2022. However, there was an objection by the fifth respondent stating that he is in shortage of land and the same is not as per the sale deed and therefore, the survey could not be conducted.

6.Considering the above said submissions made by the learned counsel on either side, this Court, without going into the merits of the matter, directs



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the respondents 1 to 3 to survey the above said land and fix boundaries after providing an opportunity to all the parties concerned. The fourth respondent is directed to provide police protection on the day when the property is measured.

7.This Writ Petition stands disposed of accordingly. No costs.

Index : Yes/No

27.09.2022

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- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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V.BHAVANI SUBBAROYAN, J.

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Order made in
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