



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.11.2022

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.25083 of 2022

Ponram

... Petitioner

Vs

1.The Tahsildar,
Tahsildar Office,
Vedasanthur Taluk,
Dindigul District.

2.The Head Surveyor,
Tahsildar Office,
Vedasanthur Taluk,
Dindigul District.

3.Alagarsamy

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1 & 2 not to survey and fix the boundary stones of the land in Survey Nos.1058/3 and 1064/5 situated at Konnampatti Village, Puliyamarathukottai Post, Vedasanthur Taluk, Dindigul District till the disposal of O.S.No.23 of 2004, which is pending on the file of the District Munsif-cum-Judicial Magistrate, Vedasanthur on the basis of the petitioner's representation dated 27.10.2022.



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For Petitioner : Mr.G.Kasinathadurai
For R1 & R2 : Mr.A.Kannan
Additional Government Pleader
For R3 : Mr.C.Venkateshkannan
for M/s.Ajmal Associates

ORDER

The petitioner has prayed for issuance of a Writ of Mandamus, directing the respondents 1 & 2 not to survey and fix the boundary stones of the land in Survey Nos.1058/3 and 1064/5 situated at Konnampatti Village, Puliyamarathukottai Post, Vedasanthur Taluk, Dindigul District till the disposal of O.S.No.23 of 2004, which is pending on the file of the District Munsif-cum-Judicial Magistrate, Vedasanthur on the basis of the petitioner's representation dated 27.10.2022.

2.Heard Mr.C.Kasinathadurai, learned counsel appearing for the petitioner and Mr.A.Kannan, learned Additional Government Pleader appearing for the respondents 1 & 2 and Mr.C.Venkateshkannan, learned counsel appearing for the third respondent.

3.The learned counsel for the petitioner would submit that the petitioner is in possession and enjoyment of the property in Survey No.1052/6, 1058/2, 1058/3, 1064/2, 1064/5 and house in Door No.133 situated at Konnampatti Villate, Puliyamarathukottai Post, Vedasanthur Taluk, Dinidigul District by way of his father

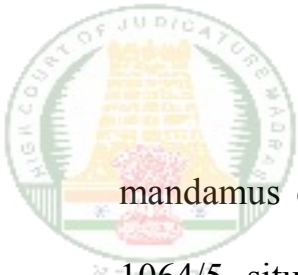


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Ramasamy's property. The above said property is allotted to his father by oral partition. After the demise of his father, the petitioner is enjoying the above said property as a legal heir. In the meantime, the third respondent's son is disturbing the peaceful possession and enjoyment of the property. Hence, the petitioner and his mother, namely, Karuppayee and other family members filed a suit in O.S.No.23 of 2004 as against the third respondent and others before the learned District Munsif-cum-Judicial Magistrate, Vedasanthur and the same was decreed in favour of the petitioner on 22.07.2005. Challenging the said judgment and decree, the third respondent filed an appeal in A.S.No.274 of 2005 before the Additional Sub Court, Dindigul and the same was also decreed in favour of the petitioner. Thereafter, the third respondent filed second appeal before this Court. This Court on 07.04.2022 has passed the following order:-

“4. This second appeal is allowed and the matter is remanded to the file of the trial Court. The parties shall appear before the trial Court on 29.04.2022. The plaintiffs are directed to file an application for including the properties covered under Ex.B.27 and also impleading the legal heirs of the daughters of Nalla Boyan. If the plaintiffs fail to carry out the amendment within a reasonable period, they will be non-suited. No costs. Consequently, connected miscellaneous petition is closed.”

4. In the meantime, the third respondent filed the writ petition in W.P(MD)No. 7529 of 2022 before this Court by suppressing the real facts without including the petitioner and his family members as necessary parties seeking to issue a writ of



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mandamus directing the respondents to survey the land in Survey No.1058/3 and 1064/5 situated at Konnampatti Village, Puliyamarathukottai Post, Vedasanthur Taluk, Dindigul District and the same was ordered. The operative portion of the above said order is extracted below:-

“6. Accordingly, this Court directs the respondents to survey and fix the boundaries in the petitioner's (3rd respondent) land comprised in survey Nos.1058/3 and 1064/5 situated at Vedasanthur Village, Vedasanthur Taluk, Dindigul District after giving notice to the petitioner and any other necessary party, whom the respondents deem fit to put on notice at the time of survey, within a period of twelve (12) weeks from the date of receipt of a copy of this order.”

5. The respondents 1 and 2 are taking steps to survey the above said lands in collusion with the third respondent without following the procedures. Hence, on 27.10.2022, the petitioner made a representation to the respondents 1 and 2 stating that there is suit is pending as against the property in survey Nos.1058/3 and 1064/5 and made his objections. Even though, the petitioner has made repeated objections, the respondents 1 & 2 are taking steps to survey the above said land without following the procedure. Hence, the petitioner has approached this Court by filing the writ petition for the above stated relief.

6. The learned Additional Government Pleader appearing for the respondents

1 & 2 would submit that there is a civil suit is pending regarding the survey nos.



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1058/3 and 1064/5. He would further submit that in the earlier order in W.P(MD)No. 7529 of 2022 both parties have not mentioned about the pending of the civil suit.

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7. Considering the above facts, the respondents 1 & 2 are directed not to survey and demarcate the land in Survey No.1058/3 and 1064/5 situated at Konnampatti Village, Puliyamarathukottai Post, Vedasanthur Taluk, Dindigul District till the disposal of the suit in O.S.No.23 of 2004, which is pending on the file of the District Munsif-cum-Judicial Magistrate, Vedasanthur.

8. Accordingly, the writ petition stands disposed of. No costs.

Index : Yes/No
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28.11.2022

To

- 1.The Tahsildar,
Tahsildar Office,
Vedasanthur Taluk,
Dindigul District.
- 2.The Head Surveyor,
Tahsildar Office,
Vedasanthur Taluk,
Dindigul District.



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V.BHAVANI SUBBAROYAN, J.

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