



W.P.(MD).No.25415 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.11.2022

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.(MD).No.25415 of 2022

and

W.M.P(MD).Nos.19518, 15920, 19522 and 19524 of 2022

- 1.Velchamy
- 2.Muthunagu
- 3.Muthuramalingam
- 4.Murugan

... Petitioners

vs.

- 1.The District Collector,
Ramanathapuram District.
- 2.The Tahsildar,
Kamuthi Taluk,
Ramanathapuram District.
- 3.The Firka Surveyor,
Kovilankulam Firka,
Kamuthi Taluk,
Ramanathapuram District.
- 4.The Taluk Deputy Inspector of Survey,
Taluk Office,
Kamuthi,
Ramanathapuram District.
- 5.The Superintendent of Police,
Ramanathapuram District.



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6.The Sub Inspector of Police,
Kamuthi Police Station,
Ramanathapuram District.

7.Sakthi Ariyappan

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned survey notice dated 12.09.2022 issued by the fourth respondent and quash the same and consequently forbearing the respondents 1 to 6 from surveying the subject property in S.No.299/5, Seemanenthal Village, Kamuthi Taluk, Ramanathapuram District, without conducting an enquiry, without hearing the objections of the interested persons, without passing a reasoned order and without communicating the same as per order dated 29.08.2022 passed in W.P.(MD).No.20247 of 2022.

For Petitioners	: Mr.J.Barathan
For R1 to R4	: Mr.D.Sadiq Raja Additional Government Pleader
For R5 &R6	: Mr.B.Thanga Aravindh Government Advocate (Crl.side)
For R7	: Mr.Mayilvahana Rajendran



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ORDER

This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned survey notice dated 12.09.2022 issued by the fourth respondent and quash the same and consequently forbearing the respondents 1 to 6 from surveying the subject property in S.No.299/5, Seemanenthal Village, Kamuthi Taluk, Ramanathapuram District, without conducting an enquiry, without hearing the objections of the interested persons, without passing a reasoned order and without communicating the same as per order dated 29.08.2022 passed in W.P.(MD).No.20247 of 2022.

2. The case of the petitioners is that they are the sons of one Periyasamy and grandsons of one Gurusamy. The 7th respondent is the great grandson of Gurusamy. The 7th respondent started to claim exclusive right over some of the properties on the basis of a registered sale deed, dated 19.04.2022. Hence, dispute arose between the legal heirs. The 7th respondent has filed a writ petition in W.P.(MD).No.20248 of 2022 against the respondents 5 and 6. This Court directed the 7th respondent to appear before the 6th respondent and further directed the 6th



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respondent to proceed with the enquiry and complete the same within a period of one month. Therefore, the 6th respondent issued summons to the third petitioner and the other co-sharers. They appeared before the police and the police conducted an enquiry and concluded that the matter is civil in nature. At the same time, the fourth respondent issued survey notice, dated 12.09.2022 for surveying the property on 16.09.2022. The petitioners and the other co-sharers strongly objected for surveying the property. Hence, the survey work was not done on 16.09.2022.

3. In the mean while, the 7th respondent has filed another writ petition in W.P.(MD).No.20247 of 2002, to survey and earmark four boundaries of the property in S.No.299/5 and the same was disposed of on 29.08.2022, directing the survey authority to issue notice to the writ petitioner and the adjacent land owners and to survey the land. But the respondents 2 and 3 have not conducted any enquiry and not passed any orders till date. But they have issued a survey notice. After the petitioners' objection, the survey was not conducted on 16.09.2022. The petitioners have filed a suit in O.S.No.113 of 2022, on the file of the Subordinate Court, Mudukulathur for partition and declaration that the release deed, dated 19.04.2022 as null and void. Now, the respondents 2



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and 3 have proclaimed that they would come with police force and measured the properties on 07.11.2022, as per the representation of the 7th respondent and the order passed by this Court. Therefore, the petitioners have filed the present writ petition seeking to quash the impugned survey notice dated 12.09.2022, issued by the fourth respondent.

4. Heard the learned counsel for the petitioners, learned Additional Government Pleader appearing for the respondents 1 to 4, the learned Government Advocate (Crl.side) appearing for the respondents 5 and 6 and the learned counsel appearing for the seventh respondent.

5. In this case, the fourth respondent has issued a survey notice to the petitioners on 12.09.2022, stating that they are going to conduct a survey on 16.09.2022 at 11.00 a.m. The suit in O.S.No.113 of 2022 is pending for adjudication. The petitioners have not impleaded all the parties in the suit as well as the parties in the writ petition. The petitioners have been called only for an enquiry. On 07.11.2022, the authorities have gone to the place, but the petitioner and the respondents did not allow them to measure the land and there was a panchayat held



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and the parties stated that they will resolve the dispute within ten days.

Hence, the Taluk Surveyor and the Village Administrative Officer have returned. The petitioners and the 7th respondent cannot take the Court for granted to act according to their whims and fancies and as and when the Revenue authorities decide, the measurement can be carried out. The said explanation by the petitioner cannot be accepted as the parties, who have got any regard for the Court orders and as such, this Court is not inclined to pass any orders in this writ petition in favour of the petitioners and the impugned notice need not be quashed.

6. The survey notice has been issued on 12.09.2022 and the authorities have gone to the place on 07.11.2022 and the parties have appeared and they have resisted the authorities from measuring the land. Hence, this writ petition is dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

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To

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- 4.The Taluk Deputy Inspector of Survey,
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- 6.The Sub Inspector of Police,
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V.BHAVANI SUBBAROYAN,J.

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