



W.P(MD)No.27946 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.12.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.27946 of 2022

and

W.M.P.(MD)No.22034, 22035 and 22037 of 2022

Southern Regional Research Center,
Represented Through P.Thirumurugan,
The Principal Scientist / Officer In-Charge,
ICAR - Indian Council of Agricultural Research,
Central Sheep & Wool Research Institute,
Mannavanur, Kodaikanal Taluk,
Dindigul District – 624 103.

... Petitioner

Vs.

- 1.The District Collector,
Dindigul District,
Dindigul.
- 2.The Revenue Divisional Officer,
Kodaikanal, Dindigul District.
- 3.The Tahsildar,
Kodaikanal Taluk,
Dindigul District.
- 4.The Assistant Divisional Engineer,
The Highways Department,
Kodaikanal, Dindigul District.
5. Vijaya
6. Gomathi



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7. Chandra

8. Karuthavanam

9. Gowsalya

10. Amirthalakshmi

11. Thilakam @ Thilagavathi

12. Ayyavu @ Ayyavu Thevar

13. Pandian

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the orders passed in Na.Ka.No.3540/2020/S, dated 07.12.2022 passed by the 3rd respondent herein and quash the same

For Petitioner : Mr.K.R.Laxman

For Respondents : Mr.M.Lingadurai,
Spl. Government Pleader for R1 to R4.
Mr.P.Sureshkumar for R5 to R13.

ORDER

Heard the learned counsel for the writ petitioner, the learned Special Government Pleader for the respondents 1 to 4 and the learned counsel for the respondents 5 to 13.



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2.The petitioner is a Central Government Organization engaged in research. They question the impugned memorandum whereby the Tahsildar, Kodaikanal has proposed to conduct survey in respect of Survey No.1017/1 in Mannavanur Village, Kodaikanal Taluk. The first contention urged by the learned counsel for the petitioner is that when the petitioner received enquiry notice, they appeared and lodged their objections. They also stated that since their head quarters is in Rajasthan, they need some more time to get further particulars. Extension of time was not granted. Instead the impugned memorandum was issued and the Tahsildar proposed to conduct survey also.

3.I am more than satisfied that this approach adopted by third respondent cannot be countenanced. I have been repeatedly holding that survey cannot be conducted without notice to the adjacent land owners and interested persons. Enquiry must be held. During enquiry, if objection is raised, they should be considered. While the survey authority is empowered to over-rule the objection, it must be a speaking order. In this case, the objections have been over-ruled summarily. Even though the earlier order passed by this Court contemplates giving six weeks window period to enable the aggrieved party to approach the concerned Court, the survey was to be held immediately thereafter. On these twin grounds namely, non-speaking nature of the order passed by the survey



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authority and failure to give breathing time to the aggrieved party to move the jurisdictional Court, the impugned memorandum is quashed.

4.The learned Special Government Pleader was at pains to point out that the revenue record in respect of Survey No.1017/1 does not stand in the name of the petitioner. This contention is factually correct. The learned counsel for the petitioner would contend that in any event, they are in possession of Survey No.1017/1 and that they have paid a sum of Rs.10,500/- to the Government for acquiring the said land way back in the year 1953. I am not in a position to consider the contention in view of to the disputed nature of facts. Liberty is given to the petitioner to move the jurisdictional Civil Court for obtaining the relief of declaration and permanent injunction. I consciously refrain from giving any finding as regards title or possession. If the petitioner files any interlocutory application seeking interim injunction, the jurisdictional Civil Court will dispose of the same on merits and in accordance with law within a period of five weeks after it is filed. The petitioner is given seven days from the date of receipt of a copy of this order to move the jurisdictional Civil Court.

5.The petitioner is also given liberty to question the issuance of assignment patta in favour of the respondents 5 to 13 before the second



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respondent. The learned counsel for the petitioner states that few days back, a formal appeal has already been sent to the second respondent by Registered Post. The second respondent is directed to dispose of the same on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order. The contentions of the private respondents are left open. Since a time bound order has been given to the jurisdictional Civil Court for disposal of the interlocutory application, the third respondent is directed to await its outcome. The third respondent can decide on his further course of action based on the outcome of the proceedings before the second respondent and the interlocutory application to be filed before the jurisdictional Civil Court.

6. With this liberty to both the parties and direction to the writ petitioner, the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

12.12.2022

Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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To:-

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