

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.12.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.28530 of 2022

and

W.M.P.(MD)Nos.22536 & 22537 of 2022

N.Sobana

... Petitioner

Vs.

1.The District Collector,
Collectorate Office,
Theni, Theni District.

2.The Tahsildar,
Taluk Office,
Utthamapalayam-625533,
Theni District.

3.The Circle Deputy Inspector (Land Survey)
Taluk Office,
Utthamapalayam-625533,
Theni District.

4.Parvathi @ Parvanadevi

... Respondents

Prayer : Writ Petition 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 notice dated 08.12.2022 in SPFL 29/2022 and quash the same and thereby directed the third respondent to measure the property at T.S.No.36/2A in accordance with the representation given by the petitioner dated 13.12.2022 with a stipulated time.

For Petitioner : Mr.B.Rajesh Saravanan
For R1 to R3 : Mr.A.K.Manikkam
Special Government Pleader
For R4 : Mr.K.Muraleedharan

ORDER

Heard the learned counsel on either side.

2. The petitioner challenges the survey notice issued by the third respondent. Such a challenge at this stage is premature and cannot be entertained.

3. The petitioner can very well file his memo of instructions to the surveyor who can take the same into account at the time of survey. The copy of the survey report will be served on all the interested parties.

4. 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.

(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. The Survey Authority will pass order within a period of six weeks after service of notice on the interested persons.

(VII) A copy of the survey report will be served on the parties also.

(VIII) If the interested person has no objection to survey as such as regards the manner of conducting survey, he can very well file his memo of instructions regarding the manner in which survey exercise is to be conducted and the same will be considered and taken note of by the surveyor.

(IX) If the petitioner is still having grievance, he can definitely avail his legal remedy in the manner known to law.

No costs. Consequently, connected miscellaneous petitions are closed.

20.12.2022

Index : Yes / No
Internet : Yes/ No
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NOTE:Issue Order Copy on 21.12.2022

To

- 1.The District Collector,
Collectorate Office,
Theni, Theni District.
- 2.The Tahsildar,
Taluk Office,
Utthamapalayam-625533,
Theni District.

3.The Circle Deputy Inspector (Land Survey)
Taluk Office,
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W.P(MD)No.28530 of 2022

G.R.SWAMINATHAN, J.

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