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W.P.Nos.2058 & 2061 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.2058 & 2061 of 2023

G.Gowri

... Petitioner in W.P.No.2058 of 2023

A.Durai

... Petitioner in W.P.No.3061 of 2023

Vs.

1.Union of India,
Represented by its Chief Secretary,
Government of Puducherry,
Puducherry.

2.The Director,
Department of Survey and Lands Records,
Revenue Complex, Saram, Puducherry.

3.The Tahsildar,
Bahour,
Puducherry.

4.Vasuki

... Respondents in both W.Ps.

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the second respondent to consider the application/representation of the respective petitioners both



dated 22.12.2021 and to survey and demarcate the lands admeasuring an extent of 343 Sq. ft comprised in Cadastre No.851/1/2/1/2, R.S.No.208/18/A situated at Embalam Revenue Village, Nettapakkam Commune, Bahour Sub Registration District, Puducherry based on the sale deed dated 13.12.2021 registered as Doc.No.30606 of 2021 at the office of SRO Bahour and to direct the second respondent to issue patta in the name of the petitioner within a time frame to be fixed by this Court.

For Petitioner in

both W.Ps. : Mr.T.Saikrishnan

For Respondents 1 to 3

in both W.Ps. : Mr.M.Nirmal Kumar,
Government Advocate (Puducherry)

For Respondent 4 in

both W.Ps. : Mrs.P.T.Nalini Kumar

COMMON ORDER

Writ of Mandamus have been instituted to direct the second respondent to consider the application / representation of the respective petitioners both dated 22.12.2021 and to survey and demarcate the lands admeasuring an extent of 343 Sq. ft comprised in Cadastre No.851/1/2/1/2, R.S.No.208/18/A situated at Embalam Revenue Village, Nettapakkam Commune, Bahour Sub Registration District, Puducherry based on the sale deed dated 13.12.2021



registered as Doc.No.30606 of 2021 at the office of SRO Bahour and also to direct the second respondent to issue patta in the name of the petitioners within a time frame to be fixed by this Court.

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2. It is not in dispute between the petitioners and the fourth respondent that the civil suit instituted in O.S.No.79 of 2021 is pending on the file of the Second Additional District Judge, Puducherry. The suit was instituted for partition and admittedly, the subject property in the writ petition is also the subject property in item No.10 of the plaint.

3. The learned counsel for the petitioners made a submission that mere pendency of the suit is not a bar for conducting survey under the provisions of the Survey and Boundaries Act by the Government Surveyors. The application made by the petitioners in this regard is to be considered, since the petitioners are not parties to the civil suit.

4. The learned counsel for the petitioners relied on the orders passed by this Court in W.P.(MD).No.13465 of 2020 dated 05.10.2020, wherein this Court had considered that the pendency of the civil suit is not a bar to



conduct survey. Relying on the said order, the learned counsel for the petitioners made a submission that the present writ petitions are to be considered for the purpose of issuing a direction to the authorities to conduct the survey.

5. The learned counsel appearing on behalf of the fourth respondent raised an objection by stating that the fourth respondent has raised several objections for conducting survey on the ground that the suit property is the subject matter of the civil suit instituted for partition. Thus, the authorities in the presence of the dispute cannot conduct survey which would cause prejudice to the interest of the fourth respondent.

6. The learned Government Advocate appearing on behalf of the respondents 1 to 3 also raised an objection on the ground that the Civil dispute between the parties cannot be interfered with and more so, in the event of any objection from any one of the parties, the surveyor who is a Government servant may not be in a position to conduct survey in the field. Only in the absence of any dispute, the surveyor would be in a position to conduct survey to measure the land.



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7. The scope of Survey and Boundaries Act cannot be expanded for the purpose of resolving the civil dispute between the parties. The Act of the year 1923 was enacted for the purpose of settling the boundaries and now 100 years lapsed. Boundaries have already been settled and now the Act has been utilised for the purpose of maintenance of revenue records by the Government. In the event of sub division between the parties or otherwise, the land is to be surveyed by the Government authorities for the purpose of maintenance of revenue records and therefore, in the event of any dispute, the Government authority may not be in a position to resolve the issues or conduct survey which would cause prejudice to either of the parties.

8. Presuming if the Government surveyor is permitted to conduct survey, the opposite party will rely on the survey for the purpose of establishing his case. The revenue records patta, Chitta and Adangal would not confer any right of title to any of the parties. Title and ownership are to be established independently through documents and evidences. Therefore, any party attempting to secure any revenue document in their favour cannot be encouraged during the pendency of the civil suit and it would result in further



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complication and the Civil Court may not be in a position to adjudicate the issues independently. Even if the petitioners are not the parties under the subsequent purchasers of the subject property which is admittedly, the subject matter of the partition suit, the petitioners are at liberty to implead themselves in the civil suit and file an appropriate interlocutory application for conducting survey of the land or for securing any interim orders from the competent civil court of law.

9. This being the procedures which all are to be followed, the Writ Court cannot grant relief in such nature of cases, which would create further complications and the parties may not be in a position to resolve the issues in the manner known to law.

10. With these observations, these writ petitions stand disposed of. No costs.

10.07.2023

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Speaking order/Non-Speaking order
Neutral Citation : Yes/No

To

- 1.Union of India,
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- 2.The Director,
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