



W.P.No.5108 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.5108 of 2021 and
W.M.P.No.5688 of 2021

1. K.Narayanan

2. N.Rajeshwari

... Petitioners

Vs.

1. The District Collector,
Tiruvallur District.

2. The Revenue Divisional Officer,
Thiruvallur Taluk, Tiruvallur District.

3. The Assistant Director of Survey,
Collector Office, Tiruvellore Taluk,
Tiruvellore District.

4. The Tahsildar,
Tiruvallur Taluk,
Tiruvallur District.

5. The Head Surveyor,
Tiruvellore Taluk,
Tiruvellore District.

6. The Taluk Surveyor,
(Deputy Inspector of survey),
Tiruvallur Taluk,



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Tiruvallur District

7. The Inspector of Police,
Sevvapettai police station,
Tiruvallur Taluk and District.

8. K.Gunasekaran

... Respondents

Prayer :- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified mandamus, to call for the records relating to the impugned order Ref. in Proceedings Na.Ka.No.145/ 2020 / B2 dated 7.12.2020 on the file of 4th respondent and quash the finding and direction of the “*parties to approach court to solve the land dispute*” and direct the appellate authority 5th respondent to measure the land comprised in S.No.398/12, 398/7, 398/14 situated at Ayyathur village, Tiruvellore District as per the sketch shown on the reverse of the manavari provisional patta for the said lands and determine the area as per boundaries using Drone Technology in order to conduct accurate survey of the property.

For Petitioners	: Mr.J.R.K.Bhavanantham
For Respondents	:
(for R1 to R7)	: Mr.D.Ravichander, Spl.G.P.
(for R8)	: Mr.R.M.D.Nasurallah Khan for Mr.M.Mohamed Hasan

ORDER

The order dated 07.12.2020, passed by the Tahsildar, declining the request of the writ petitioner to survey the land belonging to him is under challenge in the present writ petition.



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2.The learned counsel for the petitioner made a submission that the 8th respondent is not cooperating for conducting survey in respect of the land belonging to the petitioner. The petitioner has filed an appeal and the said appeal also has not been disposed of. Thus, the petitioner is constrained to move the present writ petition.

3.The learned counsel appearing on behalf of the 8th respondent raised an objection by stating that the petitioner is interfering with the portion of his land and therefore, he filed an application for conducting a survey. Even in respect of the application submitted by him, when the survey is proposed to be conducted in a different perspective, the 8th respondent raised an objection and thus, the writ petition is to be rejected.

4.Considering the claim of the petitioner and the 8th respondent, the Tahsildar passed an order that there is a dispute between the parties and therefore, they have to resolve the issues by approaching the competent Civil Court of law and thus, the petitioner is constrained to move the present writ petition.



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5.The very purpose and object of the Tamil Nadu Survey and Boundaries Act, 1923, cannot be diverted for the purpose of resolving the private property dispute between the parties. The very purpose and object of the act is to fix boundary if at all any dispute arises.

6.As far as the present case is concerned, the 8th respondent submitted an application for conducting survey. However, the 8th respondent subsequently raised an objection for the purpose of conducting survey in view of the fact that the petitioner has intended to interfere with the rights of the 8th respondent. Thus, the Tahsildar made a finding that the dispute exist and the parties are to be relegated to the Civil Court of law.

7.Survey conducted under the Tamil Nadu Survey and Boundaries Act, 1923 is neither final nor confer any property right on the persons. The scope of the Survey and Boundaries Act cannot be expanded for the purpose of conferring any right to any party. If at all the rights are to be declared, the parties are to be relegated to the Civil Court of law and such rights are to be conferred only after complete adjudication of dispute between the parties. Thus, merely submitting an application under the



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Survey and Boundaries Act or fixing the boundary by the surveyor would not be a conclusive factor regarding the title or ownership or possession or otherwise. It is a facility provided to the citizen in respect of the estate for the purpose of fixing boundary and therefore, taking any undue advantage of the boundary fixed by the surveyor under the Act is impermissible.

8.Procedures are contemplated and 'estate' has been defined under the Act. The authorities are competent to measure and conduct survey in respect of the lands falling under the definition of estate and not otherwise. The competent authorities under the Survey and Boundaries Act cannot venture into an adjudication of disputed properties nor conduct any survey and fix boundaries. The scope of the act, otherwise cannot be expanded for the purpose of resolving the private dispute between the parties. That, not being the purpose of the Act, the authorities are expected to exercise restraint in entertaining the application under the provisions of the Survey and Boundaries Act so as to ensure that the 'estate', defined under the Act alone is undertaken for conducting survey and in respect of all other disputes, the parties are relegated to Civil Court of law for resolving the issues.



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9.In the present case, the dispute exist between the petitioner and the 8th respondent and therefore, the Tahsildar has rightly relegated the parties to the Civil Court and accordingly, the parties are at liberty to resolve the issues by approaching the competent Civil Court of law.

10.With these observations, the writ petition stands **dismissed**. No costs. Consequently, connected miscellaneous petition is closed.

(sha)
Index : Yes
Speaking Order
Neutral Citation : Yes

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S.M.SUBRAMANIAM. J.,

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