



WEB COPY

W.P.No.4526 of 20



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.4526 of 2023

and

W.M.P.Nos.4532 and 4533 of 2023

1.M.Rajathi

2.M.Maran Mani

3.M.Mekala

... Petitioners

Vs.

1.The Secretary to Government,
Revenue Department,
Secretariat, Fort.St.George,
Chennai.

2.The Director of Land Survey and Settlement,
PWD Estate, Chepauk,
Chennai – 600 005.

3.The District Revenue Officer,
Chennai – 600 001.



WEB COPY

W.P.No.4526 of 20



4.The Tahsildar,
Velachary Taluk,
Chennai – 600 042.

5.Usha Selvam

6.Pradeep Selvam

7.Karthika Vikram

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records in order of the second respondent dated 30.01.2023 in Na.Ka.Na4/3998/2022 (Land Survey) and the consequential order passed by the fourth respondent dated 01.02.2023 in Na.Ka.000174/2023/A1 and quash the same.

For Petitioner	: Mr.N.Baaskaran
For R1 to R4	: Mr.T.Arunkumar, Additional Government Pleader
For R5 to R7	: Mr.R.Viduthalai, Senior Counsel for Mrs.R.Revathy



WEB COPY

W.P.No.4526 of 20



ORDER

The order dated 30.01.2023 issued by the Director of Survey and Settlement and the consequential order passed by the Tahsildar in proceedings dated 01.02.2023 are under challenge in the present Writ Petition.

2. The writ petitioners state that they are the absolute owners of the property fully described in the present writ proceedings. Admittedly, boundary dispute exist between the petitioner and the respondents 5 to 7. A Civil Suit in O.S.No.5434 of 2022 has been already instituted and pending on the file of the XI Assistant City Civil Court, Chennai.

3. The learned counsel for the petitioners mainly contended that the respondents 5 to 7 are attempting to infringe the civil rights of the petitioners based on the order passed by the Director of Survey and Settlement and the Tahsildar under the provisions of the Tamil Nadu Survey and Boundaries Act, 1923. The civil rights between the parties are



yet to be crystallized and that being the factum, the orders impugned are liable to be set aside.

WEB COPY

3. The learned Senior Counsel appearing on behalf of the respondents 5 to 7 raised an objection by stating that Section 10 of the Tamil Nadu Survey and Boundaries Act provide power to the Survey Officer to determine and record the disputed boundary. Section 11 contemplates appeal, Section 12-A provides Second Appeal and Section 12-B stipulates Revision. Under Section 14 of the Act, aggrieved parties have to approach the Civil Court for the purpose of resolving the boundary dispute. High Court cannot entertain a Writ Petition against the boundary dispute and therefore, the Writ Petition is not entertainable and is to be rejected.

4. The Additional Government Pleader appearing on behalf of the official respondents made a submission that civil disputes cannot be resolved under the provisions of the Tamil Nadu Survey and Boundaries Act. The Act cannot be utilized for the purpose of resolving the boundary



dispute between the parties and therefore, the Writ Petition is to be rejected.

WEB COPY

5. The Tamil Nadu Survey and Boundaries Act, 1923 was enacted for the purpose of settling the unsettled boundaries, 100 years back. Now the Act is being used only for the purpose of maintenance of revenue records by the Government. Private individuals cannot resolve the boundary dispute merely by submitting an application under the provisions of the Survey and Boundary Act. In the event of any disputed boundaries, the Survey Authorities are bound to relegate the parties to approach the Competent Civil Court of law. Contrarily, the Authorities cannot resolve the boundary dispute which is of civil nature.

6. In the present case, a Civil Suit has already been instituted between the parties and is pending. More so, the nature of the prohibitory order passed by the Tahsildar reveals that the Authorities have interfered with the civil rights of the parties, which is not contemplated under the Tamil Nadu Survey and Boundaries Act. Only in the event if there is no



dispute between the parties, survey can be conducted under the provisions of the Tamil Nadu Survey and Boundaries Act and appropriate orders are to be passed.

7. In the event of any objection from any of the parties, survey cannot be conducted and this being the principles to be adopted while implementing the provisions of the Tamil Nadu Survey and boundaries Act, exercise made by the Director of Survey and Settlement Act seems to excessive and unwarranted.

8. Thus, the impugned proceedings issued by the Director of Survey and Settlement in Proceedings dated 30.01.2023 in Na.Ka.Na4/3998/2022 (Land Survey) and the consequential proceedings of the Tahsildar dated 01.02.2023 in Na.Ka.000174/2023/A1 are kept in abeyance, till such time, the parties shall resolve the dispute through competent Civil Court of law in the manner contemplated. The parties are at liberty to establish their civil rights through documents and evidences independently and without reference to the impugned orders passed.



WEB COPY

9. With these directions, the Writ Petition stands disposed of.

Consequently, the connected Miscellaneous Petitions are closed. No costs.

25.09.2023

skr

Index : Yes

Speaking order

Neutral Citation : Yes

To

1.The Secretary to Government,
Revenue Department,
Secretariat, Fort.St.George,
Chennai.

2.The Director of Land Survey and Settlement,
PWD Estate, Chepauk,
Chennai – 600 005.

3.The District Revenue Officer,
Chennai – 600 001.

4.The Tahsildar,
Velachary Taluk,
Chennai – 600 042



WEB COPY

W.P.No.4526 of 20



S.M.SUBRAMANIAM, J.

skr

W.P.No.4526 of 2023

25.09.2023