



WEB COPY

W.P.No.1



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.18719 of 2023

P.Mylsamy

... Petitioner

Vs.

1.The District Revenue Officer,
O/o. the District Collector,
Coimbatore,
Coimbatore District – 18.

2.The Sub-Collector,
O/o. the Sub-Collector,
Pollachi,
Coimbatore District – 18.

3.The Superintendent of Police,
District Police Quarters,
Coimbatore – 18.

4.The Inspector of Police,
Kindathuvkadavu Police Station,
Kinathurkadavu, Coimbatore District.

5.The Tahsildar,
Taluk Office,
Kinathurkkaavu, Coimbatore District.

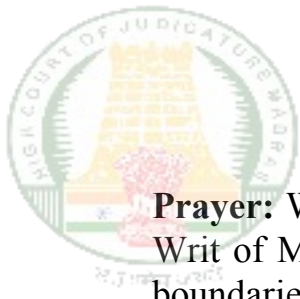
6.Ponnusamy

7.Valliammal

8.Muruganantham

9.Vadivel Kumar

... Respondents



Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 5 to measure and confirm the four boundaries of petitioner's land as per the decree in O.S.No.517 of 1998 and the lands of the respondents 6 to 8 as per Doc.No.455/1981 and calculate the area within the boundaries mentioned in the document and to fix the boundary stone and the survey work must be record videographer on the cost of the petitioner by appointing Head Surveyor with the police protection and to submit the report and plan on the basis of the petitioner's representation dated 28.04.2023 and 20.05.2023 within a reasonable time.

For Petitioner	: Mr.S.Ramachandran
For R1 to R5	: Mr.T.Venkatesh Kumar, Special Government Pleader
For R6 to R8	: Mr.L.Mouli
For R9	: No appearance

ORDER

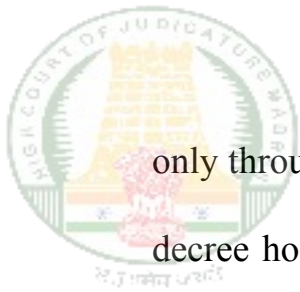
The relief sought for in the present Writ Petition is to direct the respondents to measure and confirm the four boundaries of petitioner's land as per the decree in O.S.No.517 of 1998 and the lands of the respondents 6 to 8 as per Doc.No.455/1981 and calculate the area within the boundaries mentioned in the document and to fix the boundary stone and the survey work must be record videographer on the cost of the petitioner by appointing Head Surveyor with the police protection and to submit the report and plan on the basis of the petitioner's representation dated 28.04.2023 and 20.05.2023.



2. It is not in dispute that a Civil Suit had been instituted in O.S.No.517 of 1998 and the Suit decree in favour of the writ petitioner. The grievances of the writ petitioner is that as per the decree, the respondents 1 to 5 are not conducting survey in respect of the subject land. Thus, the petitioner has chosen to file the present Writ Petition.

3. The learned counsel for the respondents 6-8 raised an objection by stating that after the judgment decree passed in O.S.No.517 of 1998, yet another Suit was instituted by the contesting respondents in O.S.No.147 of 2016 is pending on the file of the District Munsif Court, Pollachi. The same is now transferred to the Sub-Court, Pollachi, which is yet to be re-numbered. However, the petitioner is also a party to the said Civil Suit.

4. The Survey and Boundaries Act, 1923 was enacted for the purpose of settling the unsettled boundaries in the year 1993 prior to the independence. 100 years lapsed and the Act is being utilized only for the purpose of maintenance of revenue records by the Government. Thus, the scope of the Act cannot be expanded for the purpose of resolving the civil dispute between the parties. All such disputes are to be resolved



only through the competent Civil Court of law. When the petitioner states that he is the decree holder in O.S.No.517 of 1998, he has to file an appropriate application before the competent Civil Court of law.

5. It is brought to the notice of this Court that in the subsequent Suit, Advocate Commissioner was appointed along with the Surveyor to conduct survey of the property. The Advocate Commissioner report also was filed before the Civil Court. While the civil proceedings are in progress, Writ Petition is not entertainable. Such Writ Petitions are filed for the purpose of indirectly achieving the goal, at no circumstances be encouraged.

6. In the present case, it is brought to the notice of this Court that the land was already surveyed and a report was filed before the Civil Court by the Commissioner. If at all any objection, that is to be raised in the manner contemplated under the Code of Civil Procedure. Contrarily, filing a Writ Petition will result in multiplicity of proceedings and the petitioner has filed the present Writ Petition without any cause or basis. Thus, the Writ Petition is to be dismissed with costs.



7. The learned counsel for the respondents 6 to 8 brought to the notice of this Court that the petitioner has already filed a Writ Petition in W.P.No.13674 of 2021 seeking relief of compensation from police authority. During the pendency of the Civil Suit, Writ Petitions are filed for such relief cannot be appreciated.

8. In view of the facts and circumstances, the present Writ Petition stands dismissed with costs of Rs.5,000/- to be paid to the Legal Services Authority, High Court on or before 20.09.2023.

Post the matter under the caption “For Reporting Compliance” on 20.09.2023.

11.09.2023

skr

Index : Yes

Speaking order

To

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S.M.SUBRAMANIAM, J.

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