



WEB COPY



W.P.No.20034 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2023

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P.No.20034 of 2023

D.Kasthuri

... Petitioner

Vs.

1.The Thasildar,
Gummidipoondi Taluk,
Thiruvallur District.

2.Arjun Reddy

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records of the impugned proceedings of the 1st respondent bearing Nila Alavai No.15/2023, dated 16.05.2023, and quash the same and to further issue direction to the 1st respondent to conduct field inspection and survey the land situated in Survey No.64/3 B4 at No.62, Pethikuppam Village, Gummidipoondi Taluk, Thiruvallur District, owned and possessed by the petitioner in furtherance of the application dated 09.01.2023.

For Petitioner

: Mr.A.Prabhakaran

For R1

: Mr.G.Krishna Raja
Additional Government Pleader



W.P.No.20034 of 2023

ORDER

WEB COPY

The order of rejection issued by the Tahsildar, rejecting the application submitted by the writ petitioner to survey the subject property, is under challenge in the present writ petition.

2.It is not in dispute between the parties that a civil suit instituted in O.S.No.164 of 2013 is pending on the file of the District Munsif Court, Ponneri, Thiruvallur District.

3.Learned counsel for the petitioner states that the application was submitted by the petitioner to survey the land in order to ascertain the correctness of the boundaries. Such a request cannot be entertained by the Surveyor under the provisions of the Tamil Nadu Survey and Boundaries Act, 1923, during the pendency of the civil suit. There is a possibility that the other side may raise an objection, since the civil suit is pending. Contrarily, the petitioner is at liberty to file an Interlocutory Application for the purpose of measuring the land or finding out the boundaries or otherwise, before the Civil Court in the pending civil suit. When the Code



W.P.No.20034 of 2023

of Civil Procedure contemplates that a Commissioner may be appointed for conducting field inspection or survey, the authority competent cannot unilaterally survey the land, since there is a possibility of objection by the other party.

4.Thus, in the event of pendency of the civil suit before the competent Court of Law, the parties are expected to resolve the issues by approaching the Civil Court and through the orders of Court of Law. Contrarily, a party cannot submit an application to survey the land which may cause prejudice to either of the parties for adjudication of civil suit pending. Thus, the petitioner is at liberty to approach the competent Civil Court in the pending suit or otherwise in the manner known to law for the purpose of resolving the issues.

5.Accordingly, the writ petition stands disposed of. No costs.

10.07.2023

mkn
Index : Yes
Neutral citation : Yes / No
Speaking order / Nonspeaking order

Page 3 of 4



WEB COPY



W.P.No.20034 of 2023

S.M. SUBRAMANIAM, J.

mkn

To

The Thasildar,
Gummidipoondi Taluk,
Thiruvallur District.

W.P.No.20034 of 2023

10.07.2023