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W.P.No.25403 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No. 25403 of 2023

Raja

... Petitioner

Vs.

1. The District Collector,
Krishnagiri,
Krishnagiri District.

2.The Revenue Divisional Officer,
Krishnagiri
Krishnagiri District.

3.The Tahsildar,
Taluk Office,
Uthangarai.
Krishnagiri District

4. Swaminathan

.... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents 1 to 3 to consider the petitioner representation dated 25.07.2023 requesting them not to measure the land in Survey No.127/2A of Kommampatti Village, Govindhapuram Post, Uthangarai Taluk, Krishnagiri District and dispose it within the specific time frame as may be stipulated by this Hon'ble Court.



For Petitioner : Ms. G. Ranjani,
for Mr.K.Thiruvengadam

For Respondents 1 to 3 : Mr.E.Sundaram,
Government Advocate.

ORDER

The relief sought for in the present writ petition is to direct the respondents 1 to 3 to consider the representation submitted by the writ petitioner on 25.07.2023 requesting the authorities not to survey the land in Survey No.127/2A of Kommampatti Village, Govindhapuram Post, Uthangarai Taluk, Krishnagiri District.

2. The learned Government Advocate at the first instance brought to the notice of this Court that the subject property is classified as “Vandipaathai”(Cart Track) and CrI.O.P.No.16578 of 2020 filed by the fourth respondent seeking to provide police protection was disposed of by this court on 16.06.2022 directing the police to conduct an enquiry and pass orders providing adequate police protection.

3. When there is an objection for conducting survey of a particular property, then the Government Surveyor cannot conduct survey under the



provisions of the Survey and Boundaries Act. The scope of the provisions of the Survey and Boundaries Act cannot be expanded for the purpose of resolving the civil dispute between the parties. The Act is intended to settle the unsettled properties and enacted in the year 1923 i.e, 100 years back. The Act has now been utilised for the purpose of maintenance of revenue records by the Government and certainly not to resolve the civil dispute between the parties.

4. In the event of any boundaries dispute between the private parties, they are to be relegated to approach the civil court of law for the purpose of adjudication of issues. Contrarily, obtaining an order for police protection or getting a direction, during the presence of objection by other persons, the subject land cannot be surveyed. The parties are attempting to resolve the civil dispute in an indirect manner by obtaining an order of direction from the Court to survey the land. Such practices at no circumstances be encouraged by the High Court.

5. In the event of such direction being issued, the same would cause prejudice to the interest of the either of the parties and there is likelihood of



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infringement of civil rights of the parties. Thus, the complete adjudication of such boundaries or civil disputes are warranted for the purpose of settling the issue.

6. Mere direction to conduct survey would do no service to the cause of justice. The dispute regarding title, ownership or boundaries or of civil nature is to be adjudicated with reference to the documents in original and the evidence available on record. Thus, by providing a police protection or by issuing a direction to survey authorities to conduct survey, the civil disputes cannot be resolved and in such circumstances, either of the parties may approach the civil court of law, wherein they can file an interlocutory application for the purpose of conducting a survey or to fix the boundaries or otherwise.

7. Therefore, in the present case, the petitioner states that the fourth respondent is attempting to survey the land forcibly with the assistance of the police, which would cause prejudice to the interest of the petitioner. Any forcible survey of the property would not confer any title or ownership in favour of any person. Based on the survey conducted by the Government



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Surveyor, one cannot claim title, or ownership. Such survey report or otherwise may be placed before the civil court for adjudication.

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8. That being the scope of the survey if conducted under the provisions of the Survey and Boundaries Act, the relief sought for in the present writ petition is unnecessary. However, the respondents 1 to 3 are directed not to entertain any application by any person in the event of any dispute, which is of civil nature or boundary dispute between the private parties. All such parties are to be relegated to approach the competent civil court of law for the purpose of resolving the civil dispute.

9. With these observations, the writ petition stands disposed of. No costs.

29.08.2023

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Speaking order



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S.M.SUBRAMANIAM, J.



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