



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.25655 of 2023

Sathya

...Petitioner

Vs.

1.The District Collector,
Salem District, Salem.

2.The Tahsildar,
Sankari Taluk, Salem District.

3.The Head Surveyor,
Sankari Surveyor Office,
Salem District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the third respondent herein to survey the property situated in S.No.456/2A, bearing Patta No.1865 measuring to an extent of 0 Acre 25 Cents at Edanganasalai Village, Sankari Taluk, Salem District by considering the petitioner's representation dated 20.05.2023.

For Petitioner : Mr.R.Jayaprakash

For Respondents : Mr.E.Sundaram
Government Advocate.



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ORDER

The writ on hand has been instituted to direct the third respondent to survey the property situated in S.No.456/2A bearing Patta No.1865 measuring to an extent of 25 cents at Edanganasalai Village, Sankari Taluk, Salem District by considering the petitioner's representation dated 20.05.2023.

2.The petitioner intended to start a petroleum bunk and pursuant to the advertisement made by the Bharat Petroleum Corporation Limited, the petitioner approached the owner of the subject property and entered into a lease agreement with the owner Mr.Vaithinathan, who has not even been impleaded as party in the present writ petition. Pursuant to the lease agreement entered into between the owner of the subject property Mr.Vaithinathan and the writ petitioner, the petitioner submitted an application for retail petroleum outlet.

3.The learned counsel for the petitioner mainly contended that the owner of the subject property requested for enhancement of rent and a



dispute aroused. Since the owner attempted to dispossess the petitioner/tenant from the premises, she has instituted a civil suit in O.S.No.85 of 2022 on the file of the District Munsif Court, Sankari. The suit was instituted for injunction. The petitioner states that the civil court granted an order of interim injunction and the suit is pending. While so, the petitioner submitted an application before the respondents to survey the subject property. The application submitted by the writ petitioner to survey the subject property has not been considered by the respondents and thus, the petitioner is constrained to move the present writ petition. The learned counsel for the petitioner states that the civil court granted an interim injunction and therefore, it became necessary for the petitioner to survey the land for the purpose of fixing the boundaries.

4. Such an application by a tenant to survey the land at no circumstances be entertained by the authorities under the provisions of the Tamil Nadu Survey and Boundaries Act, 1923. Moreover, the petitioner had already instituted a civil suit in O.S.No.85 of 2022 and therefore, the application cannot be entertained when the dispute between the land owner and the tenant is sub judiced. The petitioner being a tenant is at liberty to



adjudicate the issues based on the recitals in the lease agreement but cannot take the role of an owner by submitting an application for the purpose of conducting survey of the land.

5.The Tamil Nadu Survey and Boundaries Act was enacted in the year 1923, 100 years back for the purpose of settling the unsettled boundaries and lands mostly belonging to the Government. No doubt there is no prohibition to conduct survey in respect of the private land belonging to the private persons, but however, such surveys are conducted by the Government Department only for the purpose of maintenance of revenue records and not to resolve the civil dispute between the parties. In other words, the scope of the Tamil Nadu Survey and Boundaries Act cannot be expanded for the purpose of resolving the dispute between the land owner and the tenant. The petitioner cannot make any attempt to create any evidence by conducting survey or to raise the ground in the civil suit instituted against the owner of the land admittedly. Any such attempt made by the tenant at no circumstances be encouraged by the Courts. Any relief of civil nature is to be secured only through civil court of law in the manner contemplated. The petitioner has already instituted a suit against the owner of the subject



property. In the present writ petition, the said owner has not even been impleaded as party and the idea of the petitioner to secure an order from this Court behind the back of the land owner also cannot be appreciated.

6.In view of the facts and circumstances, the petitioner has not established any acceptable grounds for the purpose of considering the relief. Mere direction to consider the representation as such sought for in the writ petition, if granted, would cause prejudice to the interest of the land owner in the present case.

7.Accordingly, the writ petition stands dismissed. No Costs.

31.08.2023

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Index:Yes/No

Neutral Citation:Yes/No

Speaking order/Non-speaking order

Note: The Registry, Madras High Court is directed to communicate the copy of this order to the land owner Mr.Vaithinathan, S/o.Chinnusamy, aged about 70 years residing at No.12/11-4, Pappapatti Kattuvalavu, Kadayampatti Main Road, Edanganasalai Bit-2, Edanganasalai, Sankari Taluk, Salem District – 637 502.



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S.M.SUBRAMANIAM, J.

cse

To

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