



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.26198 of 2023

R.Ragupathi

... Petitioner

Vs.

1.The Tahsildar,
Thalaivasal Tahsildar office,
Thalaivasal Taluk,
Salem District.

2.The Zonal land Surveyor,
Land Survey Section,
Thalaivasal Tahsildar office,
Thalaivasal Taluk,
Salem District.

3.The Inspector of Police,
Thalaivasal Police Station,
Thalaivasal Taluk,
Salem District.

4.Ramalingam

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 1st respondent to consider the representation of the petitioner dated 02.09.2022 to measure the land properties with the assistance of police aid situate at Siruvachur South, within



the limits of Thalaivasal Taluk, Salem District comprised in Patta No.795 and 1822 in Survey No.709/2A, 709/2B total 1.66 Acres and Survey No.709/3A, 709/3B, 709/3C total 36 cents totally 2.02 acres to put survey stones based upon the petitioner payment receipt E-Challan Number 20220901009459 dated 01.09.2022.

For Petitioner	: Mr.R.Sankarasubbu
For Respondents (For R1 and R2)	: : Mr.E.Sundaram, Government Advocate.
(For R3)	: Mr.S.Vinoth Kumar, Government Advocate (Crl.side)

ORDER

The relief sought for in the present writ petition is to direct the 1st respondent to consider the representation submitted by the writ petitioner on 02.09.2022 and to measure the land properties with the assistance of police aid situated at Siruvachur South, within the limits of Thalaivasal Taluk, Salem District, comprised in Patta No.795 and 1822 in Survey No.709/2A, 709/2B total 1.66 Acres and Survey No.709/3A, 709/3B, 709/3C total 36 cents totally 2.02 acres to put survey stones based upon the petitioner's payment receipt E-Challan Number 20220901009459 dated 01.09.2022.



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2. The petitioner states that he owns the subject land as morefully described in the present writ petition. The petitioner submitted a representation to survey his lands to the Authorities. The 4th respondent Mr.Ramalingam, raised an objection to conduct survey of the land. The petitioner in the present writ petition has stated that the 4th respondent Mr.Ramalingam is trying to encroach upon his property. When the petitioner is about to measure the land, he is objecting without any lawful justification.

3.The provisions of the Survey and Boundaries Act cannot be extended for the purpose of resolving the Civil disputes between the parties. The Survey and Boundaries Act was enacted in the year 1923, 100 years back, when the lands remained unsettled and now the Act is being utilised for the purpose of maintenance of the Revenue records by the Government. Therefore, in the event of any dispute between the parties, the Government Surveyor cannot be utilised for the purpose of resolving the disputes or to settle the boundaries. If there is an iota of doubt regarding the objections or otherwise, then the parties are to be relegated to approach the competent Civil Court of law for the purpose of settling the issues. Merely by conducting survey of the land, no one can claim title or ownership. Revenue records or



measurements taken by the Government Surveyors under the Survey and Boundaries Act, would not confer any right or ownership or otherwise. That being the scope of the provisions of the Act, no one can seek relief to grant police aid for the purpose of conducting survey through the Government Surveyors. In such circumstances, the factual inferences are to be drawn that there is a dispute between the parties and accordingly, the parties are to be relegated to approach the Civil Court of law for the purpose of establishing their rights.

4. In the present case, the 4th respondent Mr.Ramalingam, is attempting to encroach upon the property belonging to the writ petitioner. Further, he raised an objection to survey the lands. That being the factum, forcible conduct of survey under the provisions of the Survey and Boundaries Act is impermissible and the parties, at no circumstances, are allowed to indirectly achieve their goal under the provisions of the said Act. Thus, the petitioner has to approach the competent Civil Court of law for the purpose of settling the boundaries and to resolve the disputed issues between himself and the 4th respondent.



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5. Contrarily, this Court in the event of issuing a direction to survey the lands, the same would cause prejudice to the interest of the 4th respondent and the petitioner may claim right based on such measurements, if taken by the Government Surveyors. Thus, the petitioner is not entitled for the relief and the petitioner is at liberty to approach the competent Civil Court of law for the purpose of establishing his right through documents and evidences available on record.

6. With this observations, the Writ Petition stands **dismissed**. No costs.

07.09.2023

Index:Yes
Speaking order
Neutral Citation:Yes
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S.M.SUBRAMANIAM, J.

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- To
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