



WEB COPY

WP No.27343 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19-09-2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP No.27343 of 2023

Venkateshan

... Petitioner

Vs.

1.The Tahsildar,
Pochampallai Taluk,
Krishnagiri District.

2.The Head Surveyor,
Pochampallai Taluk,
Krishnagiri District.

3.S.Murugesan

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents 1 and 2 to consider petitioner's objection dated 23.08.2023 and 02.09.2023 respectively.



For Petitioner : Mr.N.Ponraj

For Respondents-1 and 2 : Mr.P.Sanjay Gandhi,
Government Advocate.

ORDER

The relief sought for in the present writ petition is to direct the respondents 1 and 2 to consider petitioner's objection dated 23.08.2023 and 02.09.2023 respectively.

2. Pursuant to the directions issued by this Court in WP No.11890 of 2023, dated 19.04.2023, the Tahsildar has commenced the enquiry for the purpose of considering the applications submitted by the third respondent for conducting survey.

3. During the pendency of the enquiry, the petitioner filed his objections on 23.08.2023 and 02.09.2023 respectively. The Authority is in the process of considering the objections submitted by the petitioner.

4. The learned counsel for the petitioner mainly contended that



the Tahsildar issued notice on 14.08.2023 to conduct survey on 28.08.2023.

Notice to conduct survey was issued based on the orders of this Court dated 19.04.2023 in WP No.11890 of 2023.

5. This Court directed the Authorities to consider and conduct survey. While-so, if there is any objection or any civil suit is pending between the parties, the Authorities are bound to relegate them to approach the Competent Civil Court of Law. In spite of objections, if survey is conducted, the rights of the parties would be prejudiced. Therefore, the Tahsildar cannot initiate action to conduct survey.

6. In the present case, despite the notice of this Court, a civil suit in between the parties in CS No.61 of 2023 is pending. The said civil suit was instituted for a declaration. If at all the land is to be surveyed, either of the parties are at liberty to file an Interlocutory Application to conduct survey by appointing an Advocate Commissioner or a Surveyor in the manner contemplated under the Code of Civil Procedure.

7. That being the principles to be followed, the present writ



petition is not entertainable.

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8. The survey cannot be conducted under the provisions of the Survey and Boundaries Act, 1923, by the Tahsildar during the pendency of the civil suit. Thus, the petitioner and the third respondent are at liberty to approach the Competent Civil Court of Law for the purpose of conducting survey.

9. The Tahsildar is directed not to conduct any survey during the pendency of the civil suit between the parties.

10. With the above directions, the present writ petition stands disposed of. However, there shall be no order as to costs.

19-09-2023

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
Svn



To

1. The Tahsildar,
Pochampallai Taluk,
Krishnagiri District.

2. The Head Surveyor,
Pochampallai Taluk,
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S.M.SUBRAMANIAM, J.

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