



W.P(MD)No.157 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.04.2023

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.157 of 2022

K.Vairavan

... Petitioner

Vs.

1.The District Collector,
Madurai District,
Collectorate,
Madurai - 625 020.

2.The Tahsildar,
Melur Taluk,
Melur, Madurai District.

3.The Firka Surveyor,
Kottampatti Firka,
O/o. the Tahsildar,
Melur, Madurai District.

4.Packiyam

5.Murugan

(R4 and R5 are impleaded vide Court
order dated 21.03.2023)

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents 2 and 3 herein to survey the land bearing Survey No.268/6B, Kottampatti village,



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Melur Taluk, Madurai District and fix the four boundaries of the same within a time frame that may be stipulated by this Court.

For Petitioner : Mr.P.Subbiah
For R1 to R3 : Mr. N.Muthuvijayan
Special Government Pleader
For R4 and R5 : Mr.B.S.Meltiue
Special Government Pleader

ORDER

This writ petition has been filed in the nature of Mandamus seeking a direction against the second and third respondents, the Tahsildar and Firka Surveyor, Melur Taluk and Kottampatti Firka respectively, to survey the lands in S.No.268/6B, Kottampatti Village, Melur Taluk, Madurai District, to fix the four boundaries.

2. The relief sought is very seriously contested by the fourth and fifth respondents who claim that the petitioner is indirectly using this process of survey, to validate title and possession. It is stated that the parties will necessarily have to agitate the entire issue relating to both title and possession only before the civil Court and that even if a survey is conducted, it would not come to the assistance of the petitioner herein. It is also contended by the



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learned counsel for the fourth and fifth respondents that they had also given a representation, but no steps have been taken by the second respondent / Tahsildar to consider their particular representation. It is also stated that other adjacent land owners would also be directly affected if the petitioner's land alone are surveyed on the basis of the documents presented by the petitioner.

3. Learned counsel for the fourth and fifth respondents contended that in their representation they had called upon the second respondent / Tahsildar to examine the document presented by them which is earlier in time and stated that if the schedule in that particular document is considered, then just and proper survey could be done by the second respondent.

4. Learned Special Government Pleader has taken notice on behalf of the respondents 1,2 and 3.

5. It is trite in law to point out that the revenue authorities, in this case, the Tahsildar, cannot decide the title. He cannot even enter into any discussion of the title of either the petitioner or of the fourth and fifth respondent or of anybody else. The Tahsildar can only go according to the revenue records available and to survey the lands and fix the boundaries. If disputes arise, it



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would only be appropriate that such survey is conducted under the supervision of a Court and it is for that particular purpose that it would be advisable that parties approach the civil Court and get necessary relief. The issue of encroachment or no encroachment of the other person's land could also be determined only when a considered order is passed by the civil Court. There are now disputes between the petitioner on the one hand and the fourth and fifth respondent on the other hand, relating to the boundaries of the properties and nature of extent of the properties, which they are permitted to enjoy and which are found in their respective documents on which they claim title and possession.

6. Learned counsel for the petitioner placed reliance on the provisions of the Tamilnadu Survey and Boundaries Act, 1993, wherein it has been stated that under Section 10 of the said Act that the Survey officer is competent to conduct survey and to determine the boundaries. It had also been stated that there is an appeal provision against such survey of lands. It had also been stated that there is a further provision for Second Appeal to be filed and also for a revision to also be filed. However, it is also seen from a perusal of the said Act that the jurisdiction of the civil Court is not either expressly or impliedly barred. When there are disputes, such disputes can be resolved only on the basis of



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documentary evidence and oral evidence which are tested during cross examination. The only forum for testing such evidence is the civil Court. If there are no other dispute among the parties, then naturally, the provisions of the Act would apply and the Tahsildar can proceed to conduct survey. But in this case, the stand of the petitioner is seriously disputed by the fourth and fifth respondents.

7. In view of the rival contentions a direction is given to the second respondent/ Tahsildar, to examine the representation given by the petitioner, issue notice to the petitioner, issue notice to the fourth and fifth respondents and examine whether they all consent for survey to be conducted and if there are disputes with respect to the area and occupation, with respect to the title of the property, with respect to the total area for which such title is claimed, then it would only be appropriate that the Tahsildar refers the parties to approach the civil Court for appropriate relief. Let the Tahsildar take a decision in this regard and such decision may be taken within a period of 12 weeks from the date on which he issues notice for appearance of the petitioner and the fourth and fifth respondents. The second respondent / Tahsildar may also issue notice to other adjacent land owners and thereafter take a decision as stated within a period of 12 weeks from the date of receipt of a copy of this order.



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8. This writ petition is disposed of. No costs.

11.04.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No

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To

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C.V.KARTHIKEYAN, J.

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