



W.P(MD)No.104 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.02.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.104 of 2023

and

W.M.P.(MD)No.119 of 2023

P.Poonkodi

... Petitioner

Vs.

1.The Tahsildar,
Peraiyur Taluk,
Madurai.

2.The Taluk Surveyor,
Peraiyur Taluk,
Madurai.

3.Pappan

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the 2nd respondent in Application No.860/22 dated 17.10.2022 and quash the same and consequently direct the respondents 1 and 2 conduct survey and demarcate the boundaries of the land in S.No.281/47 measuring to an extent of 2 Acres i.e.81 ares at Thullukuttinaickanur Village, Peraiyur Taluk, Madurai District.



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For Petitioner : Mr.K.K.Udhayakumar
For Mr.P.Praveenkumar

For Respondents : Mr.B.Saravanan,
Addl. Government Pleader for R1 & R2.
No appearance for R3.

ORDER

Heard the learned counsel for the writ petitioner and the learned Additional Government Pleader for the respondents 1 and 2. Even though the third respondent has been served and her name is printed in the cause list, she has not chosen to enter appearance.

2.The petitioner wanted survey of the petition mentioned land to be done. The second respondent issued notice to the third respondent. Based on the objection of the third respondent, the second respondent came to the conclusion that the petitioner is not in possession and that therefore, survey cannot be done. I consciously refrain from going into the question of possession. Only a Civil Court can decide the issue whether the petitioner is in possession or the third respondent is in possession. An assignment order was issued in favour of the writ petitioner. The copy of the assignment order has been enclosed at Page No.16 of the typed set of papers. The learned counsel for the petitioner draws



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my attention to the adangal extract. It is seen that the petitioner is shown to have cultivated corn. There is some material in favour of the petitioner. An exercise of survey will not lead to dispossession. I have also been holding that using police aid, even fencing cannot be put up. The exercise of survey is only to find out the boundaries and earmark the same by installing the boundaries stones nothing more and nothing less.

3.In this view of the matter, the impugned order is set aside and the writ petition is allowed. The respondents 1 and 2 are directed to conduct survey of the petition mentioned land. I make it clear that this will not in any affect the rights of the third respondent also. No costs. Consequently connected miscellaneous petition is closed.

02.02.2023

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

1.The Tahsildar,
Peraiyur Taluk,
Madurai.

2.The Taluk Surveyor,
Peraiyur Taluk,
Madurai.



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G.R.SWAMINATHAN, J.

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